

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

209

CRM-M-31486 of 2022
Date of decision:11.11.2022

Akhlesh

... Petitioner

Vs.

State of U.T.Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Abhimanyu Balyan, Advocate and
Mr. Raina Godara, Advocate
for the petitioner.

Mr. Abhinav Gupta, Addl.P.P., U.T.Chandigarh.

SUVIR SEHGAL, J. (Oral)

This is the third petition filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in case FIR No.161 dated 16.07.2011 registered under Sections 363, 366-A of Indian Penal Code, 1860 (for short "IPC"), however, Section 366-A IPC has been converted to Section 366 IPC after framing of charges, at Police Station Industrial Area, Chandigarh (Annexure P-1).

Case of the prosecution is that FIR (Annexure P-1) has been registered by the father of a 14 year old girl (hereinafter referred to as "the victim") on the allegation that she is missing from her home and he suspects that Akhlesh, present petitioner, who is a neighbour, has enticed

her.

Counsel for the petitioner contends that although it has been alleged that petitioner has allured the young girl, but in her testimony, neither the victim nor the complainant has supported the case of prosecution. Counsel submits that petitioner, who has a clean past and is in custody since 26.02.2021 deserves to be enlarged on bail as the star prosecution witnesses, have been examined.

Per contra, upon instruction from ASI Parwinder Singh, learned Additional Public Prosecutor appearing on behalf of U.T.Chandigarh has opposed the petition. He submits that petitioner was declared as Proclaimed Offender in February, 2013 and was arrested eight years later. He submits that on conclusion of investigation, challan was filed and charge has been framed under Sections 363, 366, IPC. Learned Additional Public Prosecutor could not dispute the deposition of both the crucial witnesses. He has instructions to state that victim was recovered on 01.04.2021 and in her statement under Section 164 Cr.P.C., she has stated that she left her parental home of her own volition. Upon further instructions, he submits that during her medical examination, she declined to undergo internal examination. He has instructions to submit that 11 out of total 16 prosecution witnesses have been examined and the next date before the Trial Court is 01.12.2022.

Having considered the arguments addressed by counsel for the parties, but without advertng to the merits or de-merits of the submissions made, this Court is *prima facie* of the view that culpability of the petitioner in the offence would be determined during the course of trial. Considering

the length of custody of the petitioner, stage of trial and the fact that material prosecution witnesses have been examined, this Court is of the opinion that petitioner deserves to be enlarged on bail.

Petition is allowed. Petitioner is ordered to be released on bail during the pendency of the trial on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

Trial Court may impose any condition it deems appropriate to obviate the possibility of any future default in appearance by the petitioner.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case

November 11, 2022

savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>