

**221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-33024-2022 (O&M)

Date of Decision: 12.10.2022

VINAY KUMAR @ VIJAY

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Ms. Kanika Ahuja, Advocate for the petitioner.

Mr. Zorawar Singh Chauhan, DAG Haryana.

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VIVEK PURI, J. (ORAL)

Custody certificate has been taken on record.

The petitioner is seeking regular bail in case bearing FIR No. 110 dated 08.03.2022 under Sections 363, 366-A, 120-B IPC and 4, 6, 17, 18 of Protection of Children from Sexual Offences Act, registered at Police Station Babain, District Kurukshetra.

Learned counsel for the petitioner contends that the FIR has been registered at the instance of the father of both the victims alleging that they went missing from the house on 08.03.2022. The victims have been recovered on 25.04.2022. In the statement under Section 161 Cr.P.C., one of the victims stated that she along with the other victim at the instance of Ashish had gone to Rohtak. The petitioner had facilitated them for reaching Rohtak and joined them on the way at Karnal. She has also levelled allegations to the effect that they were taken to a hotel where the petitioner had made an attempt to make physical relations with her. It has been further stated that on the following day, they were sent back but out of

fear, they had gone to Chandigarh and other places with other co-accused.

It has been further submitted that the statements of both the victims have been recorded in the trial Court. While appearing in the witness-box, the victim has not levelled any allegations with regard to attempt to develop physical relation as earlier alleged in the statement under Section 161 Cr.P.C. The petitioner is in custody for a period of 6½ months and is not involved in any other case. So far only 5 out of 23 witnesses have been examined.

Learned State counsel, on instructions of SI Ved Parkash, has not disputed the fact that in the statement recorded in the trial Court, the victim has not levelled allegation with regard to attempt to develop physical relation attributed against the petitioner. However, it has been stated that such an allegation has been levelled in the statement under Section 161 and 164 Cr.P.C.

Even as per the prosecution version, the allegations against the petitioner are only to the effect that he had facilitated both the victims to reach Rohtak. There is no allegation indicating that the petitioner had exercised threat, pressure, allurement or in any manner was party to their enticing from their home. Although, there are allegations to the effect that the petitioner had made an attempt to develop physical relations with one of the victims but such an allegation has not been substantiated by her during the course of her deposition in the trial Court. The petitioner is in custody for a period of 6½ months and is not involved in any other case. So far only 5 out of 23 witnesses have been examined. The conclusion of trial is likely to take some more time and no fruitful purpose would be served by detaining the petitioner in further custody.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

12.10.2022

Janki

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No