

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-47814 of 2022 (O&M)
Date of decision:21.10.2022

Salman

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. H.P.S.Rahi, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL J.

By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”), petitioner has approached this Court seeking grant of regular bail in FIR No.531 dated 10.09.2020 lodged for offences under Sections 363, 366-A, 376(2)(n) of Indian Penal Code, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short “the POCSO Act”) at Police Station Chandni Bagh, Panipat (Annexure P-1).

Case of the prosecution is that FIR, Annexure P-1, has been registered on a complaint presented by the mother of a 16 year old girl (hereinafter referred to as “the prosecutrix”) alleging that her daughter is missing from home since the afternoon of 09.09.2020. On enquiry, she came to know that Salman, who had taken a house on rent alongwith his cousin, Anish, in the same locality, has enticed her on the pretext of marriage. She has made a request that her daughter be located.

Counsel for the petitioner has argued that the petitioner is innocent and has been falsely enmeshed in the criminal case. He urges that there is no material with the prosecution to show that the prosecutrix, who otherwise appears to be a mature girl, is a minor. He submits that story set up by the prosecution is highly improbable and the petitioner, who is in detention since 20.09.2020, deserves to be temporarily enlarged.

Per contra, State counsel upon instructions from SI, Shiv Kumar, has opposed the petition and has submitted that upon recovery, the prosecutrix has in her statement under Section 164 of the Code as well as in her deposition levelled allegation of rape against the petitioner. She submits that the prosecutrix has also stated that the family members as well as friends of the petitioner were involved and have threatened her. Counsel submits that the petitioner, who is already married and belongs to a different religious order, had alongwith his relatives tried to pressurize the prosecutrix to change her religion and get married to her.

I have considered the submissions made by counsel for the parties.

There are categoric allegations against the petitioner in the FIR and he has been specifically named. Both the minor-prosecutrix and her mother-complainant, who have been examined as PW1 and PW2 have supported the case of the prosecution. They have withstood extensive cross-examination. At this stage, probability of the involvement of the petitioner in a heinous crime, cannot be ruled out. Although it has been contended that the prosecutrix has attained the age of majority, but no document could be referred to support the assertion. Be that as it may, this aspect will remain

subject matter to be adjudicated by the Trial Court at an appropriate stage.
Mere custody in itself will not accrue any advantage to the petitioner, who is
accused of committing an abhorrent crime on an innocent teenager.

Keeping in view the nature of accusations and gravity of
offence allegedly committed by the petitioner, this Court is of the view that
the petitioner is not entitled to be released on bail during the pendency of the
trial.

Petition is sans merit and is hereby dismissed.

It is clarified that nothing said hereinabove shall be construed to
be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

October 21, 2022
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes