

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

235

CRM-M No.47017 of 2022
Date of decision:18.10.2022

Azad

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rajesh Bansal, Advocate for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.247, dated 04.05.2022 registered for offence under Sections 363 and 366 of IPC, 1860, however, Section 376 (2) (n) of IPC and Section 06 of the Protection of Children from Sexual Offences Act, 2012, (for short “POCSO Act”) were added later on, at Police Station Panipat City, District Panipat, Annexure P-1.

Counsel for the petitioner submits that FIR, Annexure P-1, has been lodged by the mother of the prosecutrix on the allegation that her daughter went to school on 04.05.2022, but did not return and she suspected Azad (present petitioner) of enticing her. Counsel for the petitioner submits that after the recovery of the prosecutrix, her statement under Section 164 of Cr.P.C., Annexure P-3, was recorded,

wherein she has stated that she went to Jonpur, UP by train and stayed at the house of Azad. Reference has also been made by him upon the testimony of the prosecutrix as well as her mother-complainant, who have been examined as PW-1 and PW-2, to submit that both the star witnesses of the prosecution have stated that the prosecutrix, who has attained the age of majority, had married the petitioner on 13.03.2022, they have been residing together as a couple at Panipat and went to the native village of Azad after a false complaint was lodged against them. Counsel submits that the petitioner, who is in custody since 11.05.2022, deserves to be enlarged on bail as the main prosecution witnesses have been examined and there is no possibility that the petitioner will influence them.

Per Contra, State counsel, upon instructions, has opposed the petition on the ground that there are serious allegations against the petitioner, who has been named in the FIR and as per the material with the prosecution, year of birth of the prosecutrix is 2004. Still further, she submits that besides the 02 above-mentioned witnesses, 21 more witnesses have to be examined.

Having considered the submissions made by counsel for the parties, this Court is *prima facie* of the view that the culpability of the petitioner in the offence would remain a subject matter of debate before the trial court. Petitioner, who is in custody for the last more than 05 months, would be entitled to be released on bail as the material prosecution witnesses have been examined and trial is likely to take time to conclude.

Without adverting to the merits or de-merits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be enlarged on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

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

18.10.2022
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No