

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 217

Criminal Miscellaneous No.M-1786 of 2023
Date of Decision: *March 22, 2023*

Rohit

..... PETITIONER(S)

VERSUS

State of Punjab

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. Chandan Singh Rana, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

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Tribhuvan Dahiya, J (Oral)

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.265 dated 16.12.2020, under Sections 346, 363, 366, 376 IPC and Section 4 of POCSO Act, 2012, registered at Police Station Division No.7, District Ludhiana.

2. The FIR was lodged on the statement of victim's mother, that her fourteen years old daughter has gone missing. Subsequently, she was recovered from the petitioner's house, and her statement under Section 161 Cr.P.C. was recorded levelling allegations of commission of rape by the petitioner. But in her statement under Section 164 Cr.P.C. (Annexure P-1) she did not allege commission of sexual assault by him.

3. Learned counsel for the petitioner contends that the victim willingly accompanied the petitioner and stayed with him in his house. Now, the complainant as well as the victim have testified before the trial Court, their statements are on record as Annexures P-2 and P3 respectively, and none of them has supported the prosecution version. The petitioner is in custody for over two years.

4. Learned State counsel, on instructions from ASI Jagdish Raj, opposes the grant of bail on the ground that trial of the case is going on and four out of thirteen prosecution witnesses have already been examined. It is also submitted that petitioner’s DNA profile has matched with the victim’s swabs. It is, however, not disputed by him that there is no other case against the petitioner, who is in custody since 18.12.2020.
5. The facts aforestated have been considered. Apparently, material prosecution witnesses stand examined, and neither the complainant nor the victim, has supported the prosecution case. The forensic/DNA report and its evidentiary value will be appreciated at the time of final arguments. Culpability of the petitioner is a matter of trial, which will take some time to conclude. No purpose is going to be served by confining the petitioner to custody any longer.
6. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of trial Court/Duty Magistrate concerned.

(Tribhuvan Dahiya)
Judge

March 22, 2023
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<u>Whether Speaking/ Reasoned:</u>	<u>Yes/ No</u>
<u>Whether Reportable:</u>	<u>Yes/ No</u>