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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2339-2023

Date of Decision:31.05.2023

TUSHAR

..... Petitioner

Versus

STATE OF HARYANA

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Munish Behl, Advocate
for the petitioner.

Ms. Dimple Jain, DAG, Haryana.

Mr. R.K. Chaudhary, Advocate for
Mr. Bhisham Kumar, Advocate
for the complainant.

JAGMOHAN BANSAL, J. (Oral)

1. On 02.03.2023, the following order was passed:

“On 17.01.2023, the following order was passed:-

“Through instant petition under Section 438 of Code of Criminal Code, 1973, the petitioner is seeking grant of anticipatory bail in FIR No.350 dated 08.10.2022 (Annexure P-1) registered at Police Station Faridabad Old, District Faridabad, under Sections 363, 366A of Indian Penal Code, 1860 (Section 4 of POCSO Act, 2012 added later on).

Learned counsel for the petitioner, inter alia, contends that petitioner is 18 years and ½ month old and victim is 15 years and 7 months old. The victim in her statement under Section 164 Cr.P.C. as well statement before Child Welfare Committee and legalaid counsel did not make any allegation against

the petitioner. The victim even refused to get her medically examined. The statements made at later stage are under the influence of the family members. The petitioner is an innocent person and he has not committed the alleged offence. The petitioner is not involved in any other offence. The petitioner is permanent resident of District Faridabad. The petitioner is ready to join investigation and face trial. There is no possibility of flee from justice. The arrest would cause irreparable loss, mental agony, embarrassment and humiliation to petitioner as well entire family.

Notice of motion returnable for 03.02.2023.

Ms. Dimple Jain, AAG, Haryana, who is present in Court on advance notice, seeks time to file status report. “

In the order dated 06.02.2023, it was noted that as per prosecutrix, the petitioner and prosecutrix had gone to Vrindavan and Mathura and stayed in Dharmshala in night hours. She has further stated that they had gone to OYO Hotel.

Learned State counsel, on instructions from SI Sunita, submits that it is not possible to verify whether prosecutrix along with the petitioner had gone to Vrindavan, Mathura and OYO Hotel as stated by her in her statements. She further confirms that prosecutrix had gone with the petitioner along with relatives/friends of the petitioner.

The petitioner is a 18 years old boy and prima facie it appears a case of friendly relation between the petitioner and prosecutrix. Arrest of petitioner would not serve any purpose. The petitioner is directed to join investigation and appear before Investigating Officer on 05.03.2023 at 10:00 AM and thereafter as directed by Investigating Officer. In the event of

arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of Investigating/Arresting Officer. The petitioner shall co-operate with the Investigating Officer.

If the Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the learned Illaqa Magistrate who would then summon the Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 13.04.2023.”

2. The petitioner vide order dated 13.04.2023 was directed to rejoin investigation. The petitioner again joined investigation on 19.04.2023.

3. On the asking of learned State counsel, the petitioner was again directed to join investigation on 16.05.2023. Learned State counsel submits that petitioner has joined investigation on 25.05.2023, however, he is not answering the questions raised by the Investigating Officer.

4. Learned counsel for the petitioner submits that petitioner has already answered all the questions which were in his knowledge, however, Investigating Officer wants that petitioner should answer as per requirement of the Investigating Officer as well as allegations of the prosecutrix.

5. In view of afore-stated facts and circumstances and considering age of the petitioner, the petition is allowed and the interim protection granted to the petitioner vide order dated 02.03.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C

6. If the petitioner or his family members/associates make any

attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)

JUDGE

31.05.2023

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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>