

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

206

CRM-M-2433-2023

Date of Decision: 01.06.2023

Neeraj

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Sagar Sharma, Advocate with  
Mr. Vasu Ranjan Shandilya, Advocate for the petitioner  
Ms. Dimple Jain, DAG, Haryana  
(assisted by ASI Amrinder)  
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**JAGMOHAN BANSAL, J. (ORAL)**

1. The petitioner, through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') is seeking concession of regular bail in FIR No.16 dated 10.01.2022 under Sections 365 of Indian Penal Code, 1860 (for short '**IPC**') [after investigation Section 365 of IPC was deleted and Sections 342, 363, 366, 376(2)(n) and 376(3) of IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short '**POCSO Act**') added later on in final report under Section 173 Cr.P.C] registered at Police Station Quilla, Panipat District Panipat.

2. The case of the prosecution is that complainant lodged a complaint dated 10.01.2022 alleging that her daughter on 07.01.2022 was playing outside the house but she did not return home. Unknown person has kidnapped her daughter. On 21.01.2022, the victim was

produced by her mother. Counselling of the victim was conducted wherein she alleged that Jai Bhagwan has committed rape upon her. She was medico legally examined.

3. Learned counsel for the petitioner, *inter alia* contends that as per statement of prosecutrix, the petitioner kept her in a small shop for 15 days. The prosecutrix must have performed her daily necessary activities which are not possible in a small shop. The said shop is located in a town and there are other shops in the vicinity surrounding the said shop. The prosecutrix without raising hue and cry accompanied the petitioner to the said shop and did not knock the shutter. There is no medical evidence supporting case of the prosecution. The prosecutrix had accepted that her clothes were burnt by her mother before going to police station. The petitioner is in custody since 22.01.2022 and he is not involved in any other offence. No recovery is to be effected from the petitioner. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Panipat. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 31.05.2023 is taken on record. As per custody certificate, the petitioner is in custody since 21.01.2022 and he is not involved in any other offence.

5. Learned State Counsel submits that police report has already been filed and charges stand framed. She further submits that out of 16

witnesses, 4 have already been examined which includes prosecutrix and her mother. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

6. The petitioner is in custody since 21.01.2022 and he is not involved in any other offence. Police report under Section 173 of Cr.P.C. stands filed and charges stand framed. No recovery is to be effected from the petitioner. There are various disputed questions which need to be adjudicated. The Trial Court yet has to return definite findings on the disputed issues. There are 16 prosecution witnesses and till date only 4 have been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The material witnesses i.e. prosecutrix and complainant stand examined, thus, there is no possibility of winning over or pressurizing them. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail

subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

8. 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.

9. 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

01.06.2023  
Mohit Kumar

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |