

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**219****CRM-M No.4929 of 2023****Reserved on : 18.08.2023****Date of Decision : 25.08.2023**

Sajidur @ Sajid

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gaurav Gupta, Advocate for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana.

ALKA SARIN, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.63 dated 26.01.2021 under Sections 363 and 366-A of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (added later on) registered at Police Station Mujessar, Faridabad, District Faridabad.

2. Learned counsel for the petitioner would contend that the victim had gone with the petitioner voluntarily as she was in love with him and wanted to marry him. The victim in her statement recorded under Section 164 CrPC on 15.02.2021 had stated that she was in love with the petitioner and wanted to marry him. The victim in her examination-in-chief and cross-examination while appearing as PW1 had stated that there is no documentary proof regarding her age and that the petitioner developed physical relations with her with her own consent. It is further the contention

that the petitioner has been in custody for a period of 02 years 06 months and 02 days and 15 prosecution witnesses remain to be examined. Learned counsel for the petitioner has further contended that the complainant, who is the mother of the victim, is not coming forward to get her statement recorded as she has gone back to Bihar.

3. As per the status report dated 01.04.2023 filed by the respondent-State, there are a total 20 prosecution witnesses out of which only 04 have been examined. Learned State counsel is, however, not in a position to deny the fact that the victim stands examined and that the complainant is not coming forward to get her statement recorded as she is stated to be in Bihar. The State counsel has pointed out that the petitioner is a resident of West Bengal and hence there is every chance that he might abscond.

4. I have heard learned counsel for the parties.

5. In the present case the petitioner has been in custody for a period of 02 years 06 months and 02 days. The complainant is not coming forward to get her statement recorded as she is stated to be in Bihar. The victim herself has stated in her statement recorded under Section 164 CrPC as well as in her examination-in-chief and cross-examination that she had voluntarily gone with the petitioner as she wanted to marry him. As per the status report filed by the respondent-State, out of a total 20 prosecution witnesses 16 are yet to be examined.

6. Without commenting on the merits of the case and keeping in view the above facts and also the fact that conclusion of the trial is likely to take sometime, I deem it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject

to his furnishing bail bonds with heavy surety to the satisfaction of the Trial Court/Illaq Magistrate/Additional Sessions Judge (Duty) concerned.

7. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

8. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

9. Disposed off. Pending applications, if any, also stand disposed off.

25.08.2023
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO