

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

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**CRM-M No. 4580 of 2023
Date of Decision : 2.2.2023**

Vijay

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. D.S. Virk, Advocate, for the petitioner
Ms. Ankita Ahuja, AAG, Haryana

TRIBHUVAN DAHIYA J. (ORAL):

This is a petition under Section 439 Cr.P.C. seeking regular bail to the petitioner in case FIR No.31 dated 7.3.2022 under Sections 346, 363, 366-A, 376(2)(n), 376-D and 506 IPC and Section 6 of the POCSO Act, 2012, registered at Police Station Baragudha District Sirsa.

The FIR was lodged on the statement of victim's mother alleging that her younger daughter was found missing from home on 27.2.2022. Despite making best efforts, she could not be found. Request was made to the police to find her daughter.

Learned counsel for the petitioner has contended that the complainant's daughter, aged about 17 years at the time of alleged incident, was recovered from a *jhuggi*/hut at village Mohranwali, Tehsil Pokhran, District Jaisalmer, on 19.9.2022. Her statement under Section 164 Cr.P.C. was recorded on 11.4.2022 wherein she did not implicate the petitioner, and her medical examination was also conducted. After investigation the police prepared a cancellation report on 14.4.2022. About four months thereafter, on 5.8.2022, the SHO, Police Station Badagudha, Sirsa, moved an application to the Superintendent of Police for re-opening the matter as a crime against the

complainant's daughter was stated to have been committed; the application is on record as Annexure P-2. Thereupon, the victim's statement under Section 161 Cr.P.C. was recorded by the police on 6.8.2022 (Annexure P-3), wherein she named the petitioner alleging that she was taken away by him along with another boy to Jaisalmer, where they stayed together for forty days. There the petitioner allegedly forcibly committed bad act with her four-five times. Her medical examination was also conducted on 6.8.2022 (Annexure P-4), wherein it is recorded that no injury was found upon her person. On 14.8.2022, another statement of the victim was recorded by the police under Section 161 Cr.P.C., wherein she again changed her version and stated that on the night of incident, i.e., 27.2.2022, she had gone to railway station without telling anything to anybody at home. Two boys met her there and took her to Mohranwali, Pokhran, District Jaisalmer. One of them, i.e., the petitioner, committed bad act during her forty days stay there. Learned counsel submits that in the light of these facts, it cannot be said that the petitioner enticed her away or committed rape upon her as alleged. The allegations are false on the face of it and cannot be believed, especially in the light of changing versions of the victim herself.

Learned State counsel, on instructions from ASI Pardeep Kumar, submits that the trial is yet to commence, and the petitioner, therefore, should not be admitted to bail. She, however, is not in a position to dispute the facts submitted by learned counsel for the petitioner. The petitioner is in custody since 6.9.2022 and twenty three prosecution witnesses are to be examined.

Keeping in view the aforementioned facts, as also that trial of the case is not likely to conclude in near future as all the prosecution witnesses still remain to be examined, and investigation of the case is already over, no purpose will be served by keeping the petitioner in jail during trial.

Accordingly, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

(TRIBHUVAN DAHIYA)
JUDGE

2.2.2023
Ashwani

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No