

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9272-2023 (O&M)
Date of Decision: April 28, 2023

Sonu @ Sonu Khan
...Petitioner

Versus

State of Haryana
...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Nitish Sharma, Advocate
for the petitioner.

Ms.Ambika Luthra, Addl. Advocate General, Haryana
for the respondent-State.

ARCHANA PURI, J.

This is fourth petition filed by the petitioner under Section 439 Cr.P.C. for seeking grant of regular bail in case FIR No.55 dated 30.01.2020 under Section 365 IPC, Section 6 of POCSO Act and Sections 328, 343, 366A, 370, 370A, 375, 376, 120-B IPC and Sections 3, 4, 5, 6 and 7 of the Immoral Traffic (Prevention) Act, Police Station Sadar Thanesar, District Kurukshetra.

Notice of motion was issued.

Learned State counsel has made appearance and also filed the status report.

Learned counsel for the petitioner as well as learned State

counsel heard.

As per version of the prosecution, the FIR in hand, was got registered, initially under Section 365 IPC, at the behest of Roshan Lal, father of the victim, on the allegations that his daughter, who is aged 13 years, had gone missing from the house on 27.01.2020.

Further, the version of the prosecution is that the victim was recovered on 19.05.2020 and thereafter, statement of victim and her father was recorded on 19.05.2020. The police had recorded multiple statements of the victim under Section 161 Cr.P.C.

Along with the status report, supplementary statement of the victim, got recorded under Section 161 Cr.P.C. on 22.05.2022, has been annexed. In the same, apart from stating about the manner, in which, she had gone away from the house and had reached Dhaba on G.T. Road, where, she had met two boys, who, on asking of the victim, had given her meals, she also stated about, owner of the Dhabha, having facilitated the meeting of victim with one Kajal. Thereafter, Kajal had taken the victim to various places. Then, ultimately, she took the victim to a Hotel situated near Mohan Nagar, Kurukshetra, where, in collusion with boys sitting in that Hotel, called some persons there and they started doing wrong acts with the victim. After about 15 days, when she got appropriate opportunity, the victim fled away from there and reached Bus Stand, Kurukshetra. There, she met one boy and on his asking, the victim had disclosed about the manner of she being kept in illegal custody and also about the getting illegal work done by her. The said boy disclosed his name as 'Sonu' (petitioner) and also asked her to leave her at her home. He

projected himself to be unmarried and said that he will marry her and started doing wrong acts with her. Then, he had taken her to his house at B.R. School and then he took her to rented house at Ganesh Colony, Kurukshetra, where, Sonu's wife came and thereafter, victim had left away.

Another supplementary statement of the victim has been annexed with the status report. As per the same, Sonu @ Sonu Khan, on the assurance of leaving the victim, at her house, had taken her to his rental house at B.R School Salarpur road and locked her there for 10-11 days and committed wrong with her continuously, against her wish. On 18.05.2020, Sonu Khan had taken her to another rented room in Ganesh Colony Kheri Brahmna, where, whole night, Sonu Khan had done wrong act with her against her wish. Per chance, she had fled away, when Sonu Khan was sleeping.

During the course of investigation, Sonu @ Sonu Khan was arrested on 20.05.2020 and he had also got recorded his disclosure statement and got recovered blanket, which was lying on the bed, where he had allegedly made physical relations with the victim.

Now, it is submitted by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He is in custody since 20.05.2020. The trial of the case is proceeding at snail's pace. Also, it is submitted that fellow accused namely, Manish @ Manoj, Ravi Parkash, Bir Kumar, Surender Singh, Dinesh and Dimple Goel, have already been granted benefit of regular bail. As such, a prayer has been made for grant of bail to the present petitioner.

On the contrary, learned State counsel has refuted the claim for

bail. She submits that specific role has been assigned to the petitioner, at the behest of the victim. The petitioner has continuously detained the victim in his house for 10-11 days and had sexually assaulted her. Further, it is submitted by learned State counsel that in the FSL report, DNA of the seminal stains from the blanket, which was got recovered at the instance of the petitioner, matched with the DNA sample of the petitioner. In these circumstances, it is submitted that the plea of false implication, as now raised, stands refuted. Also, it is submitted that out of 56 cited witnesses of the prosecution, 18 witnesses have already been examined and still 38 witnesses, remain to be examined. Learned State counsel has further submitted that solely on account of the long detention, in view of the role, so assigned, bail ought not to be granted to the petitioner.

The petitioner is in custody since 20.05.2020. However, the challan has already been presented and the material witnesses have been examined, but 38 witnesses are still be examined. Even though, it is claimed that various other fellow accused, as named aforesaid, have already been released on bail, but however, the role assigned to the aforesaid fellow accused, is distinguishable. The victim, was forced into alleged flesh trade, at the behest of Kajal. However, there are clear and specific accusations against the present petitioner, relating to her forcible detention in the house of the petitioner for 10-11 days and having subjected her to sexual assault. Even, FSL report, as such, relied upon by the prosecution has been annexed with the status report. Suffice to consider this report, without making further reference to the merits of the case.

In view of the peculiar circumstances, more particularly,

keeping in view the age of the victim as well as the role assigned to the present petitioner, no such exceptional circumstances, are spelt out, which entitles the petitioner for grant of bail, solely on account of long incarceration.

Thus, keeping in view the gravity of the accusations against the present petitioner, at this stage, no case is made for grant of bail.

Consequently, the present petition is hereby dismissed.

April 28, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No