

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

CRM-M-10492-2023

Date of decision: 17.07.2023

Furkan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Dinesh Maurya, Advocate
for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana.

SUVIR SEHGAL, J. (ORAL)

1. Instant second petition has been filed under Section 439 Cr.PC (for short 'the Code') for grant of post arrest bail in case FIR No.37 dated 07.02.2021 under Sections 363, 366-A, of IPC, 1860 (wherein section 366-A IPC was deleted and Section 6 of the Protection of Children from Sexual Offences Act, 2012, was added later on) registered at Police Station DLF Phase-I, Gurugram, District Gurugram.

2. Version of the prosecution is that FIR has been registered on the complaint of mother of a 16 years old girl (hereinafter referred to as "the prosecutrix") stating that on 07.02.2021, at around 05:00 am, when she was sleeping in her room, her daughter told her she is going to bathroom but she did not return. She left her home without informing and could not be located. Request was made to locate her.

3. Counsel for the petitioner has contended that the petitioner, who is a young man of 22 years of age, has not been named in the FIR nor any allegation has been levelled against him. He submits that the investigation in the

matter is complete, challan has been presented and the crucial prosecution witnesses i.e. the complainant as well as the prosecutrix have been examined and the petitioner, who has been falsely implicated and is in custody since 19.03.2021, deserves to be enlarged on bail.

4. Opposing the petition, learned State counsel upon instructions submits that the petitioner is accused of aggravated sexual assault with a minor. He urges that the prosecutrix, who has been recovered from the native village of the petitioner, has levelled serious allegations against him in her statement recorded under Section 164 Cr.PC as well as in her deposition. State counsel submits that after the withdrawal of the previous petition in July, 2022, there is no change in circumstances enabling the petitioner to approach this Court again. As per his instructions, 6 out of 19 prosecution witnesses have been examined.

5. I have considered the submission made by the counsel for the parties.

6. In her statement under Section 164 Cr.PC as well as in her testimony recorded before the Court, the prosecutrix has categorically stated that she was taking care of children of one, Nidhi, where she came in contact with the petitioner, who was working in a neighboring house. She has stated that the petitioner enticed her and took her alone to his native village where he forcibly had physical relations with her repeatedly during the period of one month. His family members started pressurizing her to bring money from her family but she somehow managed to contact her brother-in-law, who informed her parents about her whereabouts. The accusation is supported from the narration given by the prosecutrix before the examining doctor, which has been appended as Annexure R-2 with the status report filed by the respondent-State.

7. Considering the nature of allegations levelled against the

petitioner, the gravity of the offence and the fact that the prosecutrix, despite extensive cross-examination, has stood firm on her deposition, this Court is not inclined to grant bail to the petitioner.

8. Finding no merit in the petition, it is hereby dismissed.
9. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

17.07.2023
Parveen kumar

(SUVIR SEHGAL)
JUDGE

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