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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-12095-2023 (O&M)  
Date of decision : 04.10.2023

Bhupesh ... Petitioner(s)  
  
Versus  
  
State of Haryana ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vivek Suri, Advocate for the petitioner.  
  
Ms. Mayuri Lakhanpal Kalia, DAG Haryana.  
  
Mr. Pankaj Bali, Advocate for the complainant.

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.15 dated 28.01.2021 under Section 365 of Indian Penal Code, 1860 read with Sections 6 and 12 of Protection of Children from Sexual Offences Act, 2012 and Section 3 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, registered at Police Station Sector-9, Ambala City, Haryana.
2. The brief facts relevant to the present case are that the FIR was lodged by the father of the victim that his daughter, who was 16 years of age, went missing on the night of 19.01.2021. The FIR was registered on

28.01.2021 and the victim was recovered on 05.06.2021 from a rented accommodation in Ambala where she was stated to be staying with the co-accused Bhupinder Yadav. The statement of the victim was recorded under Section 164 CrPC wherein she has stated that she had voluntarily gone with the present petitioner and that he had developed physical relations with her. Subsequently, she went with the co-accused Bhupinder Yadav and they had solemnized their marriage. The victim was recovered on 05.06.2021 and was found to be pregnant and an abortion was carried out. The DNA in the present case is stated to have matched with the DNA profile of the co-accused - Bhupinder Yadav.

3. Learned counsel for the petitioner would contend that the petitioner is innocent and has falsely been implicated in the present case and the victim and the co-accused Bhupinder Yadav had solemnized their marriage and were residing together and infact when the victim was recovered she was recovered from a rented accommodation where she was living with the co-accused Bhupinder Yadav. Learned counsel would further contend that the petitioner has been in custody for period of 2 years 3 months and 10 days and that the DNA is also not supporting the allegations made qua the petitioner herein.

4. *Per contra*, learned counsel for the State has contended that serious allegations have been made against the petitioner by the victim in her statement recorded under Section 164 CrPC as well as in her statement recorded before the Court below. Learned counsel for the State, however, is

not in a position to deny the fact that as per the DNA Report the DNA profile has matched with that of the co-accused and not the present petitioner. Learned counsel for the State has also filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 02 years 03 months and 10 days.

5. Heard.

6. In the present case, initially the FIR was lodged by the father of the victim that his daughter had gone missing. The incident is stated to have taken place on 19.01.2021. The FIR itself was lodged on 28.01.2021. The victim is stated to have been recovered on 05.06.2021 from a rented accommodation in Ambala where she is stated to have been staying with co-accused - Bhupinder Yadav. On being found, her statement under Section 164 CrPC was recorded and she was taken for her medical where she was found to be pregnant and an abortion was carried out. The samples were sent for DNA matching. As per the DNA Report, the DNA profile has matched with that of the co-accused Bhupinder Yadav and not of the present petitioner. As per the custody certificate the petitioner has been in custody for a period of 02 years 03 months and 10 days. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

7. In view of the above and without commenting upon the merits of the case, this Court deems 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/surety bonds to the satisfaction of the trial Court/Additional Sessions Judge (Duty) concerned.

8. 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.

9. 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.

10. Disposed of. Pending applications, if any, also stand disposed of.

04.10.2023  
Yogesh Sharma

( ALKA SARIN )  
JUDGE

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