

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 212

Criminal Miscellaneous No.M-12783 of 2023

Date of Decision: April 25, 2023

Mohammad Asgar Shah

..... PETITIONER(S)

VERSUS

State of Haryana

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. Rajesh Duhan, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

Mr. Vikas Gulia, Advocate for Mr. Baltej Nain,
Advocate for the complainant.

. . .

Tribhuvan Dahiya, J (Oral)

This petition is for grant of regular bail to the petitioner in case FIR No.178 dated 12.04.2022, under Sections 363, 366 and 376 of IPC, 1860 and Section 6 of the POCSO Act, 2012, registered at Police Station Industrial Sector 29, Panipat, District Panipat.

2. Briefly, as per allegations in the FIR lodged by the victim's father, her daughter aged about 17-18 years, did not return home on 10.04.2022. The petitioner, who was already married, had taken her away with intention to marry her.

3. Learned counsel for the petitioner contends that during trial parents of the victim have not supported the prosecution version. The victim herself has not testified before the Court despite having been summoned on the last three dates. The petitioner is in custody since 19.04.2022, and has no other case against him.

4. Learned State counsel, on instructions from SI Yogesh, does not dispute the fact of victim's parents not having supported the prosecution version. She contended that two, out of twenty four witnesses, have been

examined. The victim has not testified despite having been summoned, since she is not traceable. She was again found missing from home, and another FIR in that regard was lodged by the complainant wherein untraced report has been filed. The State counsel has also not denied that the victim in her statement under Section 164 Cr.P.C. stated that she willingly accompanied the petitioner and wanted to marry him. She was three months pregnant and aborted after permission of the Court. DNA report, however, is still awaited. The victim was statedly about sixteen years of age at the time of the incident.

5. The submissions made by learned counsel for the parties have been considered.

6. Trial of the case is not progressing since the victim has failed to testify despite having been summoned on the last three dates. She is missing again, and could not be traced by the police. Her parents, complainant and his wife, have not supported the prosecution version. In these circumstances, trial of the case will take long time to conclude as twenty two prosecution witnesses still remain to be examined. No useful purpose will be served by confining the petitioner to custody any longer. He has no criminal antecedents either.

7. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of trial Court/Duty Magistrate concerned.

(Tribhuvan Dahiya)
Judge

April 25, 2023
Payal