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2023 : PHHC : 095569

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13468-2023

Date of Decision: 27.07.2023

ANAND BARMAN

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Parveen Kaushik, Advocate for the petitioner.

Mr. Ranvir Singh Arya, Addl. AG Haryana.

* * *

VIVEK PURI, J. (ORAL)

1. The petitioner is seeking regular bail in case bearing FIR No. 07 dated 06.01.2022 under Sections 363, 366 IPC (Sections 323 and 376 IPC added later on) , registered at Police Station Asauda, District Jhajjar.

2. Status report by way of affidavit of Gulab Singh, Deputy Superintendent of Police, Jhajjar, District Hisar and custody certificate on behalf of the State have been taken on record.

3. Briefly, the FIR has been registered on the basis of the statement of the mother of the victim alleging that the victim is aged about 16 years and she went missing from the house on 01.01.2022. It has been submitted that the victim was aged more than 18 years and her relationship with the petitioner was consensual. The petitioner and the victim had been residing in a rented accommodation in Delhi. During the course of investigation, the statement of Raj Singh, the landlord was also recorded which indicates that the petitioner and the victim were residing as tenants

being husband and wife. Furthermore, there is no document to depict the date of birth of the victim except the oscification test wherein her age has been assessed to be between 18 to 25 years.

4. Learned State counsel, on instructions of ASI Rekha, submits that the victim was recovered on 18.04.2023 from Metro Station, Noida. She was on family way and her pregnancy was terminated. The report of DNA analysis has not yet been received. Out of 24, 8 witnesses including the victim and her mother have been examined.

5. It is significant to note that as per the oscification report, the age of the victim has been assessed to be between 18 to 25 years. It will be a debatable and moot point during the course of trial as to whether the relationship between the petitioner and the victim was consensual or not. During the course of investigation, the statement of the landlord has been recorded which also indicates the petitioner and the victim were residing as tenants being husband and wife. The statement of the victim and the complainant has been recorded. As such, it can not be said that the petitioner can, in any manner, win over or influence the victim. The petitioner is in custody for a period of 1 year, 3 months and 3 days and not involved in any other case. Still 16 witnesses remain to be examined. The conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

6. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail

bonds/surety bonds to the satisfaction of the concerned trial Court/Chief
Judicial Magistrate/Duty Magistrate.

7. The petition is allowed.

27.07.2023

Janki

(VIVEK PURI)
JUDGE

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