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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19536-2022

Date of Decision:- 11.01.2023.

PAWAN @ GURDEV @ PONI
Vs.

....Petitioner

STATE OF HARYANA

...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr.Naveen Siwach, Advocate for the petitioner.
Ms. Reena Verma, Advocate for the mother of the victim
Ms. Ambika Sood, Additional A.G. Haryana.

AMARJOT BHATTI, J. (Oral)

The petitioner – Pawan @ Gurdev @ Poni has filed the instant petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.32, dated 26.05.2021 under Sections 342, 366A, 376 (2) (L), 363 of IPC and Section 6 of the Protection of Children from Sexual Offence Act, 2012, registered at P.S. Women Police Station, Hansi, District Hisar.

The facts of the case are that Gurcharan Singh filed written complaint to the police that the victim is the daughter of the elder sister aged about 16 years. She started residing with him for the last about 2 months. He noticed that the victim was sad. On 26.05.2021 in the presence of his mother, he enquired from her the reason for her sadness. She disclosed that the day she had gone to bring back her aunt she was sleeping with her maternal grand-mother. At about 12 o'clock midnight she came outside to attend the call of nature. The accused was standing outside who took her to his house and indulged in wrongful act with her. With these

allegations the present case was registered.

Learned counsel for the petitioner argued that he is falsely implicated in this case. He was arrested by the police on 29.05.2021 and since then he is in custody. The challan is already presented and the case is fixed for prosecution evidence. The Court has failed to record the evidence of witnesses. It is prayed that he will abide by the terms of bail order. He cannot be kept behind the bars for indefinite time period.

The bail application is opposed by learned counsel representing the State. In the status report it is pointed out that the victim is a simpleton girl. She is suffering from 50% mental retardation. Along with the status report the record of call details and certificate of mental retardation Annexure R-7 is also placed on record. The victim has also confirmed the occurrence. Her statement was recorded under Section 164 Cr.P.C. The trial is under progress. The allegations are serious. Therefore, his bail application may be dismissed.

I have considered the arguments and have gone through the record. Admittedly the petitioner was arrested in this case on 29.05.2021 and since then he is in judicial lock up. The FIR was registered on the statement of complainant Gurbachan Singh who is uncle of the victim. The statement of victim was recorded u/s 164 Cr.P.C. in which she had confirmed the allegations. After completion of investigation challan is already presented and the statement of the victim is yet to be recorded. It has come in the status report filed by the counsel representing the State that the victim is a simpleton girl who is suffering from 50% mental retardation. The certificate dated 07.09.2018 is Annexure R-7.

Therefore, considering the aforesaid factual position and the fact

that the petitioner has sexually exploited the victim who is suffering from mental retardation. Even otherwise her statement is yet to be recorded in the Court. Therefore, at this stage, I do not find a fit case for grant of regular bail to the petitioner Pawan @ Gurdev @ Poni and the same is, accordingly, declined.

The petition is disposed of.

11.01.2023

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(AMARJOT BHATTI)
JUDGE

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