

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

222

**CRM-M No. 20173 of 2023
Date of Decision : 27.4.2023**

*Rafiq**..... Petitioner**versus**State of Haryana**..... Respondent*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Rajiv Kumar Saini, Advocate, for the petitioner

Ms. Mahima Yashpal, DAG, Haryana

TRIBHUVAN DAHIYA J. (ORAL):

This is a petition under Section 439 Cr.P.C. seeking regular bail to the petitioner in case FIR No.513 dated 30.11.2022 under Sections 363 and 366 IPC and Section 4 of the POCSO Act, 2012, registered at Police Station Sadar, Yamuna Nagar.

2. The FIR was lodged by the victim's mother stating that her daughter/victim, aged seventeen years and nine months, was missing from home on 29.11.2022.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the case, as the victim willingly accompanied him, having been badly beaten up by her uncle. These facts stand recorded in the victim's statement under Section 164 Cr.P.C. dated 5.12.2022, wherein she stated that she was badly beaten up by his uncle under influence of alcohol on 28.11.2022. In the morning her uncle Hemraj and another uncle's son Bhushan had beaten up her again. She, therefore, left the house and went to a forest and called the petitioner. She told him to take her away otherwise she would die by consuming poison. The petitioner took her to Saharanpur where she shared room with him and had physical relations also. She had stayed with the petitioner at Saharanpur for so many days. Whatever he had done to her, was by her own consent. Her family

members threatened to kill her, and that she did not want to reside with her father and mother. It is further submitted that she has refused medical examination. Trial of the case is going on and only one out of twenty witnesses has been examined. The victim has not testified, despite having been summoned three times by the trial Court. Now, bailable warrants have been issued against her.

4. Learned State counsel, on instructions from ASI Shalinder, does not deny the facts submitted by learned counsel for the petitioner. She, however, opposes the grant of bail on the ground that the trial of the case is going on and the remaining witnesses including the victim will soon be examined. The petitioner is in custody since 16.12.2022.

5. The submissions of learned counsel for the parties have been considered. Apparently, the victim has not supported the prosecution version, nor has she alleged anything against the petitioner in her statement recorded under the Section 164 Cr.P.C. She has refused her medical examination, and has also failed to testify before the trial Court despite having been summoned three times. The petitioner is in custody since 16.12.2022. In these circumstances, trial will take some time to conclude and no useful purpose will be served by confining the petitioner to custody any longer. He has no other criminal antecedents.

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

(TRIBHUVAN DAHIYA)
JUDGE

27.4.2023
Ashwani

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