

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

105+206

**Criminal Misc. No. M-20813 of 2023 (O & M)
Date of decision :-12.10.2023**

Prince**.....Petitioner****Versus****State of Haryana****.....Respondent****CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Kusum Raj, Advocate
for the applicant-petitioner.

Mr. Brijesh Sharma, AAG, Haryana
Assisted by SI Ved Pal.

NIDHI GUPTA J. (Oral)**CRM-35629-2023**

Prayer in this application is for placing on record the disclosure statement of the main co-accused, namely, Vikas @ Pandit as Annexure P-4.

The application is allowed subject to all just exceptions and the disclosure statement of main co-accused, namely, Vikas @ Pandit is taken on record as Annexure P-4.

CRM-M-20813-2023

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner during pendency of the trial in case FIR No. 704 dated 01.11.2022, under Sections 363, 366, 376-D(a) IPC and Section 6 of POCSO Act, registered at Police Station Gharaunda, District Karnal.

The FIR has been registered on the statement of father of the victim. The contents of the FIR, reads as under :-

“To the SHO Sahib police station Gharaunda, Karnal, Respected sir, I am Pushpinder S/o Shri Om Prakash resident of village Jamalpur, tehsil Gharaunda, District Karnal. I take care of my family working as a laborer. I have two children. Whose younger girl is 15 years old. Who is missing since 11:30 PM on dated 31.10.2022. Whose complexion is fair and height is 5'4'. Who is wearing lower and T-shirt and slipper. So you are humbly requested to search my daughter. My daughter name is Taniya Sharma.”

Learned counsel for the petitioner *inter alia* submits that the present FIR has been registered on the statement of the father of the victim. It is submitted that the victim was having love affair with main accused, namely, Vikas @ Pandit. Learned counsel submits that the petitioner has neither been named in the FIR (Annexure P-1) nor in the statement of the victim recorded under Section 164 Cr.P.C. (Annexure P-2). Learned counsel further submits that the victim in her statement recorded under Section 164 Cr.P.C. has categorically admitted that she went to the main accused Vikas on her own free will. It is stated that the name of the petitioner has figured for the first time in the disclosure statement of the main accused (Annexure P-4), wherein it is alleged that the victim was kidnapped by the main accused alongwith the petitioner herein and one other friend, namely, Sanjeev. Learned counsel submits that the petitioner has been falsely implicated in the present matter. Learned counsel points out that the

victim was produced in the police station by the complainant himself on 03.11.2022.

Learned State counsel has filed the custody certificate dated 11.10.2023 in Court today. The same is taken on record. Copy thereof is supplied to the counsel opposite. As per the said custody certificate, the petitioner has been in custody as undertrial for a period of 11 months and 07 days. Learned State counsel informs the Court that as per the FSL Report, human semen has been detected on the exhibits, handed over by the victim. However, the DNA report has not been received so far in the matter. Learned State counsel submits that the charges have been framed by the learned trial Court, however, no prosecution witness has been examined so far. Learned counsel further informs that the victim was 15 years old at the time of incident.

I have heard learned counsel for the parties and gone through the case file carefully.

Without commenting on the merits of the case, however, keeping in view the totality of facts and circumstances of the case, including the fact that the trial of the case is likely to consume considerable time as after framing of charges, not even a single prosecution witness has been examined so far; and keeping in view the custodial period of the petitioner; and the fact that perusal of custody certificate shows that there is no other case pending against him, his further custody may not be justified. Therefore, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner-Prince s/o Sanjeev be released on regular

bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

The petition is allowed.

October 12, 2023

Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No