

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(202)

CRM-M-23003-2023
Date of decision:- 12.05.2023

Sandeep @ Krishan

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Jagjit Singh Gill, Advocate
for the petitioner.

Mr. Harish Nain, AAG, Haryana
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. This is the third petition filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
125	08.06.2019	Kalanwali, District Sirsa	346, IPC, however, later on Sections 328, 363, 366-A, 376 (2)(n) and 506, IPC and Section 6 of the POCSO Act, 2012 were added and Section 366-A, IPC was deleted.

2. Version of the prosecution is that father of a seventeen year and 10 months old girl (for short “the prosecutrix”) lodged a complaint with the police stating that on 08.06.2019, his daughter left her parental home in the morning and took along a gold ring, cash of Rs. 6,000/-, a mobile phone and a bag full of cloths. He requested that his daughter be located.

3. Counsel for the petitioner contends that both the prosecutrix and the complainant have been examined. By making a reference to their testimony, Annexure P-3, counsel submits that the prosecutrix has deposed that she was known to the petitioner, she left her home of her own accord without informing anyone and stayed with the accused for a few days. A categorical statement has been made by her that the petitioner did not sexually assault her and the physical relationship, if any, between them, was with her consent. He submits that the complainant in his deposition has stated that the accused did not abduct his daughter. Counsel submits that the first petition was withdrawn from this Court in August, 2020 as the prosecutrix had not been examined and in the second petition, the petitioner restricted the prayer to grant of interim bail, so as to attend the marriage of his sister. He submits that as the material prosecution witnesses have been examined, the petitioner deserves to be released.

4. *Per contra*, learned State counsel, upon instructions received from SI, Omparkash, has opposed the petition by arguing that the petitioner is accused of sexual exploitation of a minor girl. He submits that the prosecutrix has supported the accusation in the statement under Section 164 Cr.P.C. Still further, it is his submission that from the FSL report, it is established that the petitioner was involved in the offence. As per information received by him, trial is at an advanced stage. By making a reference to order dated 16.03.2023 passed by the learned Additional Sessions Judge, Sirsa, Annexure P-1, State counsel submits that cost of Rs.10,000/- was imposed upon the petitioner as he did not disclose that he was simultaneously pursuing the remedy before two Courts and the petitioner has not deposited the cost so far.

5. I have considered the respective submissions of counsel for the parties.
6. Complicity of the petitioner in the offence and as to whether the physical relations between the parties were consensual, would be determined by the Trial Court on the basis of evidence led before it. Petitioner, who enjoys a clean past and has been in detention for more than forty six months, deserves to be enlarged on bail.
7. Without advertng to the merits or demerits of the arguments addressed, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.
8. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.
9. While being released on bail, petitioner will deposit the cost of Rs.10,000/- in terms of the order, Annexure P-1.

(SUVIR SEHGAL)

JUDGE

12.05.2023

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No