

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

208

CRM-M-29567-2023

Date of Decision: 15.09.2023

Parveen Kumar @ Daksh

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Mandeep Nehra, Advocate for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 772 dated 12.09.2022 registered under Sections 365 IPC (deleted later on) and Sections 363, 366 and 376(2)(n) IPC (added later on) and Section 6 of the Protection of Children from Sexual Offences Act, 2012 at Police Station City, Yamuna Nagar, District Yamuna Nagar.

The aforesaid FIR was registered on the basis of a complaint moved by the father of the victim, which reads as under:-

“.... To Chownki incharge Rampur it is requested as under, that I Utpal Bardhan son of Sh. Sadhan Bardhan, tenant of Ajay Bharti resident of Rampur Colony Police Station City Yamuna Nagar and I am contractor by profession and I have two children, that elder girl who's birth date is 7.05.2005 is studying in LN institute sector 34 Chandigarh for medical studies and resides there in PG, on dated 4.09.2022 my wife Piannita had brought my daughter

Diptashree to home and my daughter was staying at home, on dated 11.09.2022 at around 6:20 has gone from home without informing, whom we searched everywhere on our own, but we didn't find Diptashree anywhere, Diptashree has a mobile number 8708050591, that she left the mobile at home, who is wearing sea green colour lower and pink colour t-shirt and is wearing a badami colour chappal, my girl Diptashree be searched height 5ft, age 12 years”.

Learned counsel for the petitioner, *inter alia*, submits that the petitioner has been falsely implicated in the present case. At the time of alleged incident, the petitioner was 19 years old; whereas the victim was 17½ years old. The present FIR has been registered on the basis of complaint moved by the father of the victim. The petitioner and the victim were in a consensual relationship and this fact has been admitted by the victim in her statement recorded under Section 164 Cr.P.C. Therefore, it is submitted that the allegation against the petitioner that he had made physical relations with the victim without her consent are false. All the material prosecution witnesses have been examined. The petitioner is in custody since 15.09.2022 and undertakes not to tamper with the evidence or influence the witnesses. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner may be released on regular bail.

Per Contra, learned counsel for the State has filed custody certificate dated 14.09.2023, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 11 months and 29 days. Learned counsel for the State vehemently opposed the prayer for grant of regular bail to the petitioner by submitting that

allegations levelled against the petitioner are of serious nature. He further submits that out of total 17 prosecution witnesses, 15 have already been examined by the trial Court including the material witnesses who in their testimonies have fully supported the prosecution case. It is submitted that DNA report has not been received so far, therefore, it is prayed that till the receipt of DNA report, the petitioner shall not be enlarged on regular bail.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case including the fact that there is no other case against the petitioner; and the fact that petitioner is in custody since 15.09.2022 and the trial will take time in conclusion, as well as the fact that all the material witnesses stand examined, the present petition is **allowed**.

The petitioner-Parveen Kumar @ Daksh S/o Late Sh. Pardeep Kumar, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

15.09.2023*rishu***(NIDHI GUPTA)
JUDGE**

CRM-M-29567-2023

-4-

2023:PHHC:122022

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No