

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29846-2023 (O&M)
Date of decision : 20.09.2023

Aakash ... Petitioner(s)

Versus

Union Territory, Chandigarh ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ajay Bhardwaj, Advocate for the petitioner.

Ms. Simsi Dhir, Addl. PP for UT Chandigarh.

ALKA SARIN, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.0058 dated 02.05.2023 under Sections 363, 366 of the Indian Penal Code, 1860 (Section 376(2) IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 added later) registered at Police Station Sector 31, Chandigarh, District Chandigarh.
2. Learned counsel for the petitioner would contend that initially the FIR was lodged under Sections 363 and 366 of IPC and subsequently Section 376(2) of IPC and Section 4 of the POCSO Act were added. Learned counsel would further contend that the petitioner and the victim wanted to get married and the victim had left her house with the petitioner on her own accord. It is further the contention that the statement of the victim has since

been recorded and the victim has not supported the case of the prosecution and rather she stated that she had gone with the petitioner on her own accord and that the petitioner at no point of time developed forcible sexual relations with her. She has also stated that she is major. It is further the contention that the petitioner has been in custody for a period of 04 months and 12 days.

3. Learned Addl. PP for UT Chandigarh has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 04 months and 12 days. Learned Addl. PP for UT Chandigarh is not in a position to deny that the victim has not supported the version of the prosecution.

4. Heard.

5. In the present case though initially the victim had stated in her statement under Section 164 CrPC that the petitioner had made forcible sexual relations with her, however, at the time of her examination and cross-examination, she has not supported the case of the prosecution and rather she stated that she never gave any statement under Section 164 CrPC to the effect that the petitioner had forcibly developed physical relations with her. The victim has also stated that she had filed a petition for protection in this regard along with the petitioner and she is major and that the petitioner at no point of time developed forcible sexual relations with her. The petitioner has been in custody for a period of 04 months and 12 days. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

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6. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

7. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

8. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

9. Disposed off. Pending applications, if any, also stand disposed off.

20.09.2023

Yogesh Sharma

(ALKA SARIN)

JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO