

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-32742-2023

Date of Decision: 06.10.2023

Ankush

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Parveen Chauhan, Advocate for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. S.K. Gupta, Advocate for the victim.

NIDHI GUPTA, J. (ORAL)

Memo of appearance filed on behalf of the victim is taken on record.

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. 222 dated 04.06.2022 (Annexure P-1) registered under Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Sections 323/34, 346, 506, 363, 366-A, 376(2)(n) IPC at Police Station Butana, District Karnal.

The aforesaid FIR was registered on the basis of complaint moved by mother of victim which is reproduced as under:-

“..... Sir, it is submitted that I bala wife of Sh. Sonu resident of Ward No. 6, Poultry Area Nilokehri. That my

daughter namely Simran is aged about 17 year and her height is 5-4 inch, colour whitish. Yesterday morning at 9:30 AM she went for Job but did not return home till evening. That we have searched and tried to find out our daughter but she was not found. That after enquiring from the peoples of locality we found that one boy namely Ankush son of Ramphal is also missing since yesterday. That thereafter, I found that the above named boy has taken away my daughter. That in this regard it is also revealed that Annu wife of Sunil and Annu's brother Aditya residents of Karsa Dod are also having hand in abducting my daughter. That the above named boy has taken away my daughter by alluring her. That when we tried to enquiry from Annu this regard then she started quarreling and went to her house. It is, therefore, prayed that kindly take strict legal action against above named boy Ankush and his associates and my daughter be recovered.....”

Learned counsel for the petitioner, *inter alia*, submits that the petitioner and the victim were in love affair. It is submitted that the victim was 17½ years old at the time of alleged incident and now, she has attained majority and is willing to marry the petitioner, in case, he is released on bail. It is further submitted that the victim in her statement recorded under Section 164 Cr.P.C. had deposed in favour of the petitioner, wherein she submitted that she had left her house on her own accord and sweet will and nothing wrong has been done by the petitioner

against her. It is submitted that on the basis of aforesaid statement of the victim, even cancellation report was prepared by the police. However, thereafter, under the influence of her parents, the victim in her statement recorded under Section 161 Cr.P.C., had retracted from her earlier statement recorded under Section 164 Cr.P.C., and the present challan was presented against the petitioner. The petitioner has been in custody since 26.02.2023. 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.

Learned counsel appearing for the victim submits that the victim is ready to marry the petitioner and he does not oppose the prayer of grant of bail to the petitioner.

Status report dated 05.10.2023, filed by way of affidavit of Sh. Subhash Chander, HPS, Deputy Superintendent of Police, Indri, District Karnal, on behalf of respondent-State, is taken on record.

Learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and has filed custody certificate dated 05.10.2023, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 07 months and 10 days. He further submits that charges have been framed by the learned trial Court, however, no prosecution witness has been examined, so far.

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 custody certificate reveals that there is no other case against the petitioner; and the

fact that no prosecution witness has been examined so far, therefore, conclusion of trial will take sufficient time and no useful purpose would be served by further detention of the petitioner, the present petition is **allowed.**

The petitioner-Ankush S/o Shri Ram Phal, 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.

06.10.2023
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No