

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**216****CRM-M No.33885 of 2023****Date of Decision : 19.09.2023**

Subhash

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sachin Ohri, Advocate for the petitioner.

Mr. Harjinder Singh Sidhu, AAG Punjab.

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.53 dated 15.04.2023 under Sections 363, 366 of the Indian Penal Code, 1860 (Sections 120-B and 376 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 were added later on) registered at Police Station Division No.2, Pathankot, District Pathankot.

2. Learned counsel for the petitioner would contend that the complainant, who is father of the victim, had lodged a complaint that his daughter studying in Class 10th, whose date of birth is 05.06.2008, had gone to the school, however, she did not return to home. Initially, the complaint was that she had been abducted by unknown persons. Thereafter, on the basis of a supplementary statement suffered by the complainant, the petitioner was also named in the present case. Learned counsel for the petitioner would further contend that the petitioner is a friend of the main

accused, namely, Arjun, against whom the allegations of kidnapping and rape have been levelled. The petitioner was named only on the basis of suspicion expressed by the complainant that he had conspired in helping the main accused, namely, Arjun to kidnap the victim. Learned counsel for the petitioner has contended that on the basis of supplementary statement suffered by the complainant namely, Ashwani Kumar, the offences under Sections 120-B and 376 IPC were added vide GD No.3 dated 21.04.2023 and the petitioner was nominated as an accused. It has also been submitted that the petitioner has clean antecedents and has been in custody for a period of 04 months and 29 days. Learned counsel for the petitioner has also stated that the co-accused namely, Rani Devi and Rakesh Kumar, have since been granted the concession of bail by this Court vide orders dated 01.06.2023 and 12.06.2023 passed in CRM-M-27120-2023 and CRM-M-29918-2023 respectively. It is further the contention that the petitioner is at par with the aforesaid two co-accused.

3. Custody certificate has been filed by learned State counsel as per which the petitioner has been in custody for a period of 04 months and 29 days. Learned State counsel is not in a position to deny the fact that the similarly situated co-accused namely, Rani Devi and Rakesh Kumar, have since been granted concession of bail by this Court vide orders dated 01.06.2023 and 12.06.2023 passed in CRM-M-27120-2023 and CRM-M-29918-2023 respectively.

4. I have heard learned counsel for the parties.

5. The petitioner has been in custody for a period of 04 months and 29 days. The allegations of kidnapping and rape are against the main accused namely, Arjun. The petitioner has been implicated in the present

case by invoking the provisions of Section 120-B IPC. Similarly situated co-accused namely, Rani Devi and Rakesh Kumar, have since been granted concession of bail by this Court.

6. In view of the above and without commenting upon the merits of the case, I deem 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 and 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.

19.09.2023
jk

(ALKA SARIN)
JUDGE

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