

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**216-1****CRM-M No.35985 of 2023****Date of Decision : 19.09.2023**

Dhruv Mahajan

....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 the victim had been abducted by unknown persons. Learned counsel for the petitioner would further contend that the petitioner has falsely been implicated in the present case and that he was neither named in the FIR nor in the supplementary statement of the complainant and has been

implicated subsequently only on the basis of investigation made in the present case. The allegations *qua* the petitioner are that he had gone to Jammu and Kashmir and given money along with clothes to the main accused namely, Arjun, and that he had purchased a SIM card on the basis of his ID proof and gave it to the main accused. It is further the contention that the petitioner was nominated as an accused vide GD No.26 dated 23.04.2023. Learned counsel for the petitioner has further stated that the co-accused namely, Rani Devi and Rakesh Kumar, who were named in the supplementary statement of the complainant, 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. Status report by way of affidavit of Sh. Sumeer Singh, PPS, Superintendent of Police, Sub Division City, District Pathankot has been filed by learned State counsel, which is taken on record. Registry to scan the same and tag at the appropriate place. As per the status report, the petitioner has been nominated as an accused in the instant case vide GD No.26 dated 23.04.2023 on the basis of investigation when it came to light that the petitioner had gone to Jammu and Kashmir and given money along with clothes to the main accused namely, Arjun. One SIM card is also stated to have been purchased by him on his ID proof and given to the main accused, Arjun.

4. Learned State counsel has opposed the grant of bail to the petitioner on the ground that the present petitioner was aware that the main accused, Arjun, had abducted the victim and that he provided money, clothes

and a SIM card to the main accused.

5. I have heard learned counsel for the parties.

6. In the present case, the allegations of kidnapping and rape are against the main accused, Arjun. The petitioner was neither named in the FIR nor in the supplementary statement of the complainant recorded on 21.04.2023. The petitioner has been nominated as an accused vide GD No.26 dated 23.04.2023 on the basis of investigation when it came to light that the petitioner had gone to Jammu and Kashmir and given money along with clothes to the main accused, namely, Arjun. The petitioner is also stated to have given a SIM card, purchased on his ID proof, to the main accused. Similarly situated co-accused namely, Rani Devi and Rakesh Kumar have already 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. The allegations of kidnapping and rape are against the main accused namely, Arjun. The petitioner has been in custody for a period of 04 months and 26 days.

7. In view of the above and keeping in view the fact that there is no recovery which is to be made from the petitioner 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.

8. 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.

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

(ALKA SARIN)
JUDGE

19.09.2023
jk

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