

CRM-M No. 35665 of 2023(O&M) -1- 2023:PHHC:133580
239+107 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 35665 of 2023 (O&M)
Date of Decision:- 12.10.2023

YOGESH ... Petitioner
Versus
STATE OF HARYANA ... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Parveen Sharma, Advocate for the petitioner.
Mr. Surender Singh, AAG, Haryana.
.....

SANJIV BERRY, J. (ORAL)

CRM-40983- 2023

- 1. Heard.
- 2. Application is for placing on record deposition sheet of PW-2 to PW-4 as Annexures P-3 to P-5. The same is allowed, subject to all just exceptions.
- 3. Application stand disposed of.

Main Case

- 1. The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
0046	26.01.2023	34, 365, 379-B, IPC and 84 of Juvenile Justice (Care & Protection of Children) Act.	Bahalgarh, District Sonapat.

2. It is *inter alia* contended by the learned counsel for the petitioner that the petitioner has been falsely implicated in this case by the Police and held in custody since 27.02.2023. He submits that after completion of investigation, challan was presented in Court and during the course of trial the prosecution has examined all the material witnesses including the complainant, who have turned hostile and the petitioner has been in custody throughout and as such prayed for grant of concession of bail.

3. *Per contra* learned State counsel on the other hand opposed the bail application by submitting that the petitioner was involved in the aforesaid case and was arrested on 27.02.2023. He admitted that during the course of trial the complainant as well as other material witnesses have turned hostile and only official witnesses remains to be examined.

4.. In nutshell, the case put forth by the prosecution is that the case was registered on the statement of Jai Kuwar stating that on 25.01.2023 at about 6:00 am he was informed by Jatin son of Raju that he had gone along with Prince son of complainant for running and while they were sitting on the service road, one vehicle came from there and two boys alighted and one boy kept on sitting in the vehicle, forcibly dragged Prince in their vehicle. During the course of investigation the petitioner as well as other co-accused were arrested and challan was presented in Court.

5. During the course of trial, the prosecution has examined the complainant of case Jai Kuwar as PW-2, and the victim Prince as PW-3 and eye witness Jatin as PW-4 and none of the witnesses have uttered anything against the petitioner and were declared hostile. Their testimony in Court

has been placed on record as Annexure P3 to P5. Admittedly only official witnesses remained to be examined. The petitioner is in custody in this case since 27.02.2023, therefore, considering the facts and circumstances and also the fact that the material witnesses have turned hostile, no purpose would be served by detaining the petitioner in custody any longer, as the conclusion of trial will take sufficient long time.

6. Resultantly, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.
7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)

JUDGE

12.10.2023

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No