

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-36631-2023 (O&M)

Date of Decision: 05.10.2023

BRIJ MOHAN

.... Petitioner

VERSUS

UT, CHANDIGARH

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Arjun Sharma, Advocate for the petitioner.

Mr. Anupam Bansal, APP 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.88 dated 08.07.2023 under Sections 354, 354-A and 509 of the Indian Penal Code, 1860 and Section 8 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Mauli Jagran, Chandigarh.

2. In the present case the FIR was lodged by the mother of the victim wherein she stated that she has been married twice and has two daughters from her first husband. The elder daughter i.e. the victim stays with her husband at Indira Colony and the younger daughter lives with her. It is further stated in the FIR that on 08.07.2023 she got a phone call from her daughter that she wanted to come and meet her, to which she agreed. Her

daughter is stated to have taken an auto from Indira Colony and before sitting in the auto she called from her friend's phone and gave the phone number of the auto driver. Thereafter, she (mother) was waiting at the light of Hallomajra to pick her daughter. She tried calling at the auto driver's number, however, the phone was switched off. Thereafter, she got a call from one Ajay who informed that her daughter was standing near him and was nervous and crying. She asked the said Ajay to bring her daughter to the Hallomajra lights. Ajay brought her daughter there and on asking, her daughter informed that the auto driver had done wrong things with her. The victim further stated that the auto driver told her that he liked her very much and that she should befriend him and asked her when they would meet again. She also stated that the auto driver grabbed her from her shoulder and pressed hard which made her feel very bad. As the auto driver slowed down, she got down from the auto and ran outside where she saw Ajay standing.

3. Learned counsel for the petitioner would contend that a false case has been planted upon the petitioner and that the victim has not supported the case of the prosecution even in her statement recorded under Section 164 CrPC. Learned counsel has further relied upon the affidavit given by the complainant wherein she stated that the FIR was got registered due to some misunderstanding.

4. Learned counsel for UT Chandigarh has filed the custody certificate and as per the custody certificate, the petitioner has been in custody for a period of 2 months and 28 days and that the petitioner has clean antecedents. Learned counsel for UT Chandigarh is not in a position to

deny the fact that the victim has not supported the case of the prosecution in her statement recorded under Section 164 CrPC. Infact, she has stated that since the auto driver was taking her through the jungle, she got scared and it was later on she realized that it was the correct route and further that nothing wrong was done with her by the petitioner.

5. Heard.

6. In the present case the victim herself has not supported the case of the prosecution in her statement recorded under Section 164 CrPC. The complainant has also given an affidavit wherein she has stated that the FIR was a result of misunderstanding. The petitioner has clean antecedents. The petitioner has been in custody for a period of 2 months and 28 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.

7. 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.

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.

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10. Disposed of. Pending applications, if any, also stand disposed of.

05.10.2023 Aman Jain (ALKA SARIN) JUDGE

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