

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

252

CRM-M-38569-2023 (O&M)

Date of decision: 01.12.2023

Soni Singh @ Soni

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. S. S. Momi, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This is the second petition that has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.279 dated 17.11.2021, registered under Section 6 of the POCSO Act, 2012 and Sections 363, 366, 406 and 366-A of the IPC at Police Station Ismailabad, District Kurukshetra.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by complainant 'S' (*name withheld*) alleging therein that on 17.11.2021 at about 08:00 A.M., her daughter 'SK' (*name withheld*) had gone to attend her school along with complainant's son who had left her at the gate of school. However, after the school timing, when he went to pick her up, he found that she had not come to the school and had

gone missing. The complainant also found the locker of her almirah to be unlocked and jewellery and cash amount of Rs. 10,000/-, lying there, to be missing. She raised suspicion that her minor daughter had been enticed away by the petitioner. After registration of the FIR, investigation proceedings were initiated. During investigation, the victim was recovered from Bhiwani. Her statement under Section 164 Cr.P.C. was recorded. Offence under Section 6 of the POCSO Act was added. Medico-legal examination of the victim was conducted. The petitioner was arrested on 09.03.2022. He was interrogated and suffered disclosure statement admitting his involvement in the crime of kidnapping and ravishing the victim and demarcated the place of occurrence. After completion of investigation and usual formalities, challan under Section 173 Cr.P.C. was presented in Court and presently, the petitioner is facing trial for commission of aforementioned offences. He had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 07.06.2022.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He is in custody since 09.03.2022. The material witnesses i.e prosecutrix and her mother have since been examined. The trial is to take some time. The statement of the prosecutrix was suffering from several inconsistencies and proved that she had willingly gone with the petitioner. No case for commission of offence of kidnapping/abduction and rape has been made out against him. Therefore, he has argued that the present petition deserves to be allowed.

4. *Per contra*, learned State counsel has resisted the petition in

terms of the status report dated 21.11.2023. He has argued that there are serious allegations against the petitioner. The victim, in her sworn deposition, has categorically deposed against the petitioner and her testimony proves the complicity of the petitioner in the subject crime. Hence, it is urged that the petition deserves to be dismissed.

5. The petitioner is alleged to have kidnapped/abducted the prosecutrix on the pretext of performing marriage with her and is further alleged to have criminally misappropriated the jewellery and money of the prosecutrix, which she had taken from her house. He is further alleged to have ravished the prosecutrix. The allegations against the petitioner are quite serious in nature. There is nothing on record to show that there would be any undue delay in conclusion of trial. The plea that the statement made by the prosecutrix in the Court is inconsistent to her earlier statement cannot be looked into at this stage. Keeping in view the gravity of offences alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that the petitioner does not deserve to be given concession of regular bail. Hence, the petition stands dismissed.

01.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No