

CRM-M-37947-2023

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

CRM-M-37947-2023

Date of Decision:- 19.09.2023

Chottu Kumar

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Navneet Singh, Advocate for the petitioner.
Mr. Narinder Singh Behgal, Asstt. AG, Haryana.
Ms. Anshul Agnihotri, Advocate for the complainant.

AMARJOT BHATTI, J. (Oral)

1. The petitioner – Chottu Kumar has filed the present 2nd petition under Section 439 CrP.C. for grant of regular bail in case FIR No. 372 dated 12.08.2021 under Sections 363, 366, 506, 328, 376-DA of IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Sadar Thanesar, District Kurukshetra.

2. The facts of the case are that the complainant i.e. mother of the victim filed written complaint to SHO, PS- Sadar Thanesar that she is mother of three children. The eldest daughter i.e. the victim was about 15 years old. On 12.08.2021, She woke up at about 6:00-7:00 A.M. and noticed that her daughter was not at home. She went outside and noticed that her daughter was lying naked near a cycle repair shop. She brought her daughter inside who was unconscious. The police was informed and ambulance was called. She was taken to hospital in Kurukshetra where she regained consciousness. She disclosed that on the previous

intervening night at about 12:00-01:00 A.M., Chottu called her who was known to her since long being their distant relative. She was called near Khanpur Bridge where he was present alongwith another boy Nitesh on a motorcycle. They took her near Pipli bridge where she was forcibly made to consume liquor and both Chottu and Nitesh committed wrongful act with her against her wishes and they left her near their house in unconscious condition. With these allegations, present FIR has been registered.

3. The learned counsel for the petitioner argued that he is falsely implicated in this case. Earlier, he had filed regular bail application before Additional Sessions Judge, Fast Track Special Court which was declined vide order dated 12.12.2022, Annexure P-8. He again filed regular bail in the High Court in CRM-M-1618-2023 which was dismissed as withdrawn as per order dated 22.02.2023, which is Annexure P-7. Now the statements of material witnesses have been recorded who have not supported the prosecution story which are Annexures P-4 to P-6. Even the DNA report Annexure P-3 is not against the present petitioner. He is behind the bars since 14.08.2021. Trial of this case may take some more time. He is ready to abide by the terms of bail order. It is prayed that his regular bail application may be allowed. The bail application is not opposed by learned counsel for the complainant.

4. The bail application is opposed by learned counsel representing the State. The factual position is not disputed. However, it is pointed out that as per the report of Forensic Science Laboratory, it was required that fresh blood sample of the present petitioner be again sent for the purpose of testing. The allegations

are specific and serious in nature. The victim was minor, therefore, the present petitioner is not entitled to the concession of regular bail.

5. I have considered the arguments and have gone through the record carefully. In this case, the present petitioner was arrested on 14.08.2021 and for the last more than two years, he is behind the bars. The earlier bail application filed in this Court was withdrawn. Copy of this order dated 22.02.2023 is Annexure P-7. The learned counsel for the petitioner has placed on record the statements of father of the victim, the victim herself and her mother, which are Annexures P-4 to P-6 respectively, who have not supported the prosecution case and they were declared hostile. Their statements can be considered at the final stage of the trial by the concerned trial Court. The trial of this case may take more time. The other co-accused Nitesh was granted bail by Juvenile Justice Board vide order dated 17.02.2022, which is Annexure P-2. The present petitioner is ready to abide by the terms of bail order. Therefore, without expressing my mind on the merits of the case, the second regular bail application filed by the petitioner – Chottu Kumar is allowed. He is ordered to be released on bail on furnishing bail bonds and surety bonds to the satisfaction of trial Court/Duty Judge concerned.

The petition is accordingly, accepted.

19.09.2023

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:

Yes

Whether reportable:

Yes/No