

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

216

CRM-M-39453-2023

Date of Decision: 31.08.2023

Dev Raj Yadav @ Devaraj Yadav

.... Petitioner

Versus

U.T. Chandigarh

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Rajesh K. Dadwal, Advocate for the petitioner.

Mr. P.S. Paul, Addl. P.P. for U.T. Chandigarh.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 200 dated 06.12.2022 (Annexure P-1) registered under Section 363 IPC (Sections 366/376(2)n IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012, were added later on) at Police Station Sector 39, Chandigarh.

The aforesaid FIR (Annexure P-1) was registered on the basis of complaint of mother of the victim which is reproduced as under:-

“I Munari Devi W/o Mahendra Shah R/o 183/2 Vill Badheri Sec 41 D live in Chd. With my family and I do my household work. I have 5 children in which four boys and one girl. From which my daughter's name is Kakul Kumari Age 17 years 2 months 22 days. Who got ready from home at 08:00 AM this morning and went to school who did not go to

her school Govt School Badheri Sec 41 A Chd. Who is a student there in 9th class. We do not know where my daughter has gone and she has taken her Aadhaar card with her and has also taken her PNB bank account passbook with her. My daughter's missing report should be written. I want to give my daughter's photo in newspaper or TV. My girl does not have any personal mobile phone."

Learned counsel for the petitioner, *inter alia*, submits that the FIR was registered on the statement of mother of the victim. It is submitted that as per FIR which was registered on 06.12.2022, the victim was 17 years, 2 months and 22 days years old. The victim in her statement recorded under Section 164 Cr.P.C. has stated that she has gone with the petitioner with her own consent. Learned counsel further submits that even in her testimony dated 21.04.2023 (Annexure P-2), the victim has turned hostile and has not supported the prosecution story. The petitioner is in custody since 08.12.2022. He is not involved in any other case. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner may be released on regular bail.

Per Contra, learned counsel for the State has filed custody certificate dated 31.08.2023, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 08 months and 22 days. Learned counsel further submits that out of total 21 prosecution witnesses, 11 have already been examined and 02 have been given up and the next date of hearing before the trial Court is 21.09.2023, for recording the evidence of prosecution.

Having heard learned counsel for the parties, but without commenting on merits of the case, keeping in view the totality of the facts and circumstances of the case including the fact that there is no other case against the petitioner, as well as the fact that conclusion of trial will take some time, the present petition is **allowed**.

The petitioner-Dev Raj Yadav @ Devaraj Yadav is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

31.08.2023
rishu

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No