

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

CRM-M-42617-2022 (O&M)

Date of Decision : 11.09.2023

Kishan

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Punit Malik, Advocate for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana.

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ALKA SARIN, J. (Oral)

1. This is the first petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.274 dated 17.07.2021 registered under Sections 6, 17 of the Protection of Children from Sexual Offences Act, 2012 at Police Station DLF, Sector-29, Gurugram.

2. Learned counsel for the petitioner would contend that the only allegation in the present case is that the petitioner had accompanied the accused when he had gone to pick-up the victim from her house and that he had accompanied them on their motor-cycle. Learned counsel would further

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contend that the petitioner has been in custody for a period of 02 years 01 month and 23 days and that there is no allegation of any wrong act having been committed by him. Infact, the victim in her cross-examination has categorically stated that the present petitioner has not committed any act of sexual harassment or sexual assault upon the victim.

3. Notice of motion.

4. Ms. Mayuri Lakhanpal Kalia, DAG Haryana accepts notice and has filed a custody certificate. Learned counsel for the State is not in a position to deny the fact that the only role attributed to the petitioner is that he came on a motor-cycle along with the main accused. In the cross-examination the victim has specifically denied that the present petitioner committed any wrong act with her. Learned State counsel, on instructions from Sub Inspector Sunita, has stated that the DNA has matched with that of the co-accused.

5. I have heard learned counsel for the parties.

6. In the present case the petitioner has been in custody for a period of 02 years 01 month and 23 days. It is not disputed that the only role attributed to the petitioner is that he came on a motor-cycle with the main accused when they picked up the victim. The victim in the present case has categorically stated in her cross-examination that the petitioner had not committed any act of sexual assault or harassment upon her. The DNA report has also matched with the co-accused. No purpose would be served by keeping the petitioner in incarceration as the trial is likely to take some time to conclude.

7. Keeping in view the totality of the circumstances and without commenting upon the merits of the case, I deem this to be a fit case to grant

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the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds and 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.

10. Disposed off accordingly. Pending applications, if any, also stand disposed off.

11.09.2023
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(ALKA SARIN)
JUDGE

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