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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-40006-2023 (O&M)

Date of decision : 16.11.2023

Mohmad Harun

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Arvinder Arora, Advocate for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana.

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.116 dated 23.05.2023 under Sections 363, 366-A of the Indian Penal Code, 1860, registered at Police Station Raipur Rani, District Panchkula.

2. The present FIR was lodged on a complaint made by the father of the victim wherein he stated that his daughter who was 13 years of age had gone missing and he suspected that the petitioner – Mohmad Harun – had taken her away on the pretext of marriage. The girl was recovered on 28.05.2023 from Karnal. Thereafter, her statement under Section 164 CrPC

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was recorded wherein she stated that she had not gone with the present petitioner willingly and that nothing bad happened with her. The mother of the victim refused to get her medical examination conducted.

3. Learned counsel for the petitioner would contend that the offence under Section 366-A of IPC is not made out in the present case inasmuch as the victim had very categorically stated in her statement recorded under Section 164 CrPC that nothing bad was done with her. It is further the contention of learned counsel that the petitioner has been in custody for a period of 05 months and 17 days and that he has absolutely clean antecedents.

4. Learned counsel for the State has filed the status report by way of affidavit of Surender Singh, HPS, ACP, Panchkula which is taken on record. Registry to scan the same and tag at the appropriate place. Learned counsel for the State has also filed the custody certificate and as per the custody certificate, the petitioner has been in custody for a period of 05 months and 17 days and there is no other case pending against him. Learned counsel for the State has further contended that the child is a minor and the allegations in the present case are serious in nature and hence this is not a fit case for grant of regular bail.

5. Heard.

6. In the present case, as per the custody certificate, the petitioner has been in custody for a period of 05 months and 17 days and there is no other case pending against him. The question whether the offence under

Section 366-A IPC is made out in the present case would be a matter of trial. The victim, when she was recovered, has stated in her statement recorded under Section 164 CrPC that nothing bad was done with her. The mother of the victim had refused to get her medical examination conducted. 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.

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

16.11.2023

Yogesh Sharma

(ALKA SARIN)

JUDGE

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