

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

**CRM-M-44484-2022 (O&M)
Date of decision : 17.03.2023**

Dharambir

..... Petitioner

versus

State of Haryana and another

.....Respondents

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Rajesh Gupta, Advocate
for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

Mr. Anirudh Singh Shera, Advocate
for respondent No.2.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for seeking cancellation of regular bail granted to respondent No.2 in FIR No.0058 dated 31.01.2022, under Section 84 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Sections 363, 366-A of IPC (Sections 328, 376(2)(N) of IPC and Section 6 of POCSO Act added), registered at P.S. Sonipat Sadar vide which respondent No.2 had been granted bail.

It has been contended by counsel for the petitioner that after having been granted bail to respondent No.2 on 10.08.2022, learned Additional Sessions Judge, Fast Track Court, Sonipat has framed the charges under Section 376(2)(N) of IPC vide order dated 30.08.2022. He submits that the petitioner was granted bail only for the offence under Sections 363, 366-A of IPC and Section 84 of the Juvenile Justice (Care and Protection of Children) Act, 2015. He submits that once Section 376

(2)(N) of IPC has been added, the bail granted to respondent No.2 should be cancelled.

Learned counsel for respondent No.2 has opposed the submissions made by counsel for the petitioner and has submitted that the offence under Section 376(2)(N) of IPC did not even exist on the date of granting bail.

Learned State counsel has submitted that the offence had been added by the trial Court vide order dated 30th August, 2022 and on the date of granting bail, this offence was not there. He submits that as per the instructions provided, till date, there is no adverse report against the petitioner of having misused the concession of bail granted to him. However, in the facts and circumstances of the case, if the custody of the petitioner will be required, the requisite action would be taken by the State.

After hearing counsel for the parties and perusing the record, this Court finds that the offence under Section 376(2)(N) of IPC was not in the picture at the time of consideration of bail. However, the charges were framed by learned trial Court vide order dated 30.08.2022. The State is at liberty to take the requisite action if so required in accordance with law. Simply because the offence under Section 376(2)(N) of IPC has been added, in the opinion of this Court, is no ground to cancel the bail granted to respondent No.2. Resultantly, the present petition is dismissed.

(RAJESH BHARDWAJ)
JUDGE

17.03.2023
m.sharma

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