

216

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

CRM-M-43926-2023 (O&M)

Date of Decision:- 02.11.2023

AKASH

....Petitioner

Vs.

STATE OF HARYANA

...Respondent

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Pranshul Dhull, Advocate for the petitioner.
Mr. R.K.S. Brar, AAG, Haryana.

AMARJOT BHATTI, J. (Oral)

1. The petitioner – Akash has filed the instant petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.191 dated 31.05.2021 under Sections 363/366 of IPC and Sections 4 and 17 of Protection of Children from Sexual Offences Act, 2012 (added later-on) registered at Police Station Kherki Daula, District Gurugram.

2. The facts of the case are that the complainant Sunil Kumar filed written complaint to SHO Police Station Kherki Daula, Gurugram that he is father of a daughter i.e. victim aged about 15 years who had studied upto 9th Class. After the lockdown, she was staying at home. On the intervening night of 29.05.2021/30.05.2021 he woke up to drink water at 12.30 am and noticed that his daughter was missing from her room. He tried to search his daughter and from the CCTV footage he came to know

that a car bearing No.UP27AT-7484 had come in their street and left a boy namely Sanju who worked in a transport company. Thereafter, he contacted Sanju and came to know about the driver of said car namely Akash and other boy sitting in the car namely Vinod. He suspected Vinod that he enticed away his daughter on the pretext of marriage. With these allegations the present FIR was registered. Later-on, the victim was recovered and her statement was recorded under Section 164 Cr.P.C. on 05.06.2021. She was medically examined and after completion of investigation challan was presented in the Court.

3. Learned counsel for the petitioner argued that the allegations levelled against him are false. There are no allegations of rape against him. The said allegations are against other boy namely Vinod. In-fact, the victim left the house with Vinod with her free will. The statement of the victim is also recorded in the Court which is Annexure P-4 where she clearly stated that the rape was committed by other accused. He is behind the bars since 11.07.2021. His first regular bail application [CRM-746-2023] was dismissed as withdrawn vide order dated 10.05.2023. He is ready to abide by the terms of bail order. It is prayed that his second bail application may be allowed.

4. The detailed status report is received. The bail application is opposed by State counsel. It is pointed out that both Akash and Vinod were arrested on 11.07.2021. They are facing trial in this case. A specific role is attributed to the present petitioner. The allegations against him are serious. The victim was a minor. Therefore, considering the gravity of offence, the petitioner is not entitled to be released on bail.

5. I have considered the arguments and have gone through the record. It is matter of record that the statement of the victim has been

recorded which is Annexure P-4. The allegations of rape are against the other co-accused. As per the facts narrated by the victim, the present petitioner had facilitated the commission of offence. The evidence led before the trial Court is to be appreciated at appropriate stage. The facts remains that the allegations of rape are not against the present petitioner and he is behind the bars since 11.07.2021. The statement of material witness has been recorded. The trial of this case may take long time. Therefore, considering the aforesaid facts, without expressing my mind on the merits of the case, the regular bail application filed by the present petitioner is allowed. He is ordered to be released on bail to the satisfaction of trial Court/Duty Judge.

6. The petition stands accepted.

Pending application, if any, also stands disposed of.

02.11.2023

snd

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned: Yes/No.

Whether reportable: Yes/No