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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50261-2021 (O&M)

Date of Decision:- 01.02.2023.

HARISH NOGIA ALIAS HARISH KUMAR

....Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Jaswinder Singh Grewal, Advocate
for the petitioner.

Mr. M.S.Joshi, Addl. A.G. Punjab.

AMARJOT BHATTI, J. (Oral)

CRM-44278-2022

This is an application filed by the petitioner under Section 482 Cr.P.C. for placing on record the copies of statements of PWs (Annexure P-4) and Death Certificate (Annexure P-5).

For the reasons enumerated in the application, the same is allowed. Accompanied documents Annexure P-4 and Annexure P-5 are taken on record.

The application stands disposed of.

CRM-M-50261-2021

The petitioner – Harish Nogia @ Harish Kumar has filed the instant petition under Section 439 Cr.P.C. for grant of regular bail in FIR No. 73 dated 04.09.2021 under Sections 363, 366-A IPC (subsequently added Section 376 of IPC and Section 4 of POCSO Act) registered at Police Station City 2 Abohar, Tehsil Abohar, District Fazilka.

The facts of the case are that the complainant gave her statement to the police that she is a married lady having three children. Their daughter i.e. the victim aged about 14 years 11 months was studying in 9th standard. On 31.08.2021, the family went to sleep after dinner and on 01.09.2021, when she woke up at 04:30 A.M, she noticed that Muskan was not present on her bed. She told this fact to her husband and started searching her. It was found that some articles and cash of Rs. 22,000/- was missing. They could not locate the victim. They had firm belief that Harish Nogia enticed her daughter on the pretext of marriage. With these allegations, the present case has been registered.

Learned counsel for the petitioner argued that the allegations levelled against him are false. In fact, no such occurrence took place. There is nothing on record to show that he enticed the victim to leave her house. There is no such allegation in the statement under Section 164 Cr.P.C. Learned counsel for the petitioner further referred to the criminal miscellaneous i.e. the Death Certificate dated 31.10.2022 Annexure P-5, according to which the alleged victim has expired on 20.09.2012. Learned counsel for the petitioner also referred to the testimony of complainant Rekha PW-1 and her husband Davinder Kumar PW-2, who did not support the prosecution version and were declared hostile. It is argued that petitioner is falsely implicated. The trial of this case may take long time. He will abide by the terms of bail order. Therefore, his regular bail application may be allowed.

The bail application is opposed by learned counsel representing the State on the ground that there are serious allegations against the petitioner. It is admitted that the alleged victim has already expired.

However, the bail application is opposed by the learned counsel

representing the State.

I have considered the arguments and have gone through the record carefully. The petitioner is facing trial in the aforesaid FIR with the allegation of kidnapping the minor victim as well as with the allegation of rape. There is statement of said victim recorded under Section 164 Cr.P.C. where she has not levelled any such allegation against the present petitioner. Unfortunately, the victim has expired and her death certificate is placed on record. The statements of complainant and her husband are recorded by the trial Court and both of them were declared hostile as they did not support the prosecution version. The said statements are Annexure P-4. The rest of the prosecution evidence is yet to be recorded. Therefore, without expressing my mind on the merits of the case and considering the aforesaid facts, the regular bail application filed by the petitioner – Harish Nogia @ Harish Kumar is allowed. He is ordered to be released on bail to the satisfaction of trial Court/Duty Judge.

The petition is, accordingly, accepted.

01.02.2023
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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No