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

CRM-M-45952-2023 (O&M)

Date of Decision : 10.10.2023

GURSEWAK @ GURSEWAK SINGH

.... Petitioner

VERSUS

STATE OF HARYANA

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. SS Dinarpur, Advocate

Mr. Ram Kumar Saini, Advocate and

Mr. Rohit Singh, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

Mr. Rohit Kashyap, Advocate for the complainant.

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.38 dated 09.06.2023 under Sections 376(2)(n), 376-D, 354-D and 120-B of the Indian Penal Code, 1860 and Sections 67 and 67-A of the Information Technology (Amendment) Act, 2008 registered at Police Station Women Kurukshetra, District Kurukshetra.

2. Learned counsel for the petitioner would contend that the only

allegation against the petitioner in the FIR is that he had accompanied the main accused when he had taken the victim. Learned counsel would further contend that no overt act has been attributed to the petitioner either in the FIR or in the statement of the victim recorded under Section 164 CrPC. Learned counsel would further contend that similarly situated co-accused already stand granted the concession of bail in CRM-M-44730-2023 and CRM-M-46557-2023 vide orders dated 13.09.2023 and 21.09.2023, respectively.

3. Status report by way of affidavit of Deputy Superintendent of Police, Headquarters Kurukshetra filed by learned State counsel is taken on record. Registry to scan the same and tag at the appropriate place.

4. Learned State counsel is not in a position to deny the fact that the only allegation against the petitioner is that the present petitioner was present along with the main accused when he had taken the victim and also the fact that in the statement of the victim recorded under Section 164 CrPC no overt act has been attributed to the petitioner. Learned counsel for the State has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 03 months and 06 days.

5. Heard.

6. In the present case the only allegation in the FIR against the petitioner is that he had accompanied the main accused when he had picked up the victim. Subsequently, the petitioner is also stated to have accompanied the accused to various hotels where the accused had taken the

victim. No overt act has been attributed to the petitioner either in the FIR or in the statement of the victim recorded under Section 164 CrPC. There is no other case against the petitioner. The petitioner has been in custody for a period of 3 months and 6 day. 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 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. Additionally, given the nature of the allegations and the other circumstances, the petitioner shall not enter the property, workplace and the residence of the victim and shall not approach the victim or her family in any manner. This Court is imposing this condition to rule out any attempt by the accused to incapacitate, influence or cause any discomfort to the victim/witnesses.

10. 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.

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11. Disposed of. Pending applications, if any, also stand disposed of.

10.10.2023 (ALKA SARIN)
Aman Jain JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No