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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50082-2023 (O&M)
Date of decision : 14.12.2023

Sachin

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Eklavya Gupta, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

ALKA SARIN, J. (ORAL)

1. This is a petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.72 dated 20.02.2023 under Sections 365 of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (Sections 363, 366, 323, 506, 120-B, 366-A IPC added later on and Section 365 deleted later on) registered at Police Station Chandimandir, Panchkula.

2. The FIR was registered on the statement of the father of the victim wherein he has stated that on 16.02.2023 at about 11 am his daughter left the house on her own and without informing anyone and that despite searching for her she could not be found. The victim was recovered on 16.04.2023 from Jaipur and her medical was conducted on 16.04.2023 and her statement under Section 164 CrPC was also recorded on 16.04.2023.

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3. Learned counsel for the petitioner would contend that the petitioner herein was not named by the victim in her statement recorded under Section 164 CrPC and his name for the first time surfaced in the disclosure statement of the co-accused - Gautam. Learned counsel would further contend that rape charges are not qua the petitioner. It is further the contention of the learned counsel for the petitioner that the petitioner has been in custody for a period of 07 months and 24 days and that he has absolutely clean antecedents.

4. 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 07 months and 24 days and there is no other case pending against him. Learned counsel for the State has also filed the status report by way of affidavit of Aryan Chaudhary, HPS, Assistant Commissioner of Police, Panchkula along with the MLR and the statement of the victim recorded under Section 164 CrPC. Registry to scan the same and tag at the appropriate place. Learned counsel for the State would contend that this is not a fit case for grant of regular bail to the petitioner since the victim is a minor in the present case.

5. Heard.

6. In the present case the victim went missing on 16.04.2023 and on being found on 16.04.2023 her statement was recorded under Section 164 CrPC and her medical was also conducted. In her statement recorded under Section 164 CrPC allegations have been made against the main accused i.e. Gautam. The present petitioner was not even named by the victim in her

statement recorded under Section 164 CrPC. The petitioner was nominated only on the basis of the disclosure statement of the co-accused - Gautam - wherein the role attributed to the present petitioner is that he helped the co-accused - Gautam - in taking the victim away from Panchkula. As per the custody certificate the petitioner has been in custody for a period of 07 months and 24 days and there is no other case pending against him. 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.

14.12.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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