

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

CRM-M-50645-2023 (O&M)

Date of Decision : 12.10.2023

BHAWANI SHANKAR

.... Petitioner

VERSUS

STATE OF HARYANA

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rohit Mittal, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

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.95 dated 08.04.2023, under Sections 363, 366-A of the Indian Penal Code, 1860 and Section 17 of Protection of Children from Sexual Offences Act, 2012 registered at Police Station Ateli, District Mahendergarh.

2. Learned counsel for the petitioner would contend that the petitioner was neither named in the FIR nor in the statement of the victim recorded under Section 164 of CrPC and that the present petitioner was nominated on the disclosure statement of the main accused, namely,

Siddharth, who has since been granted the concession of regular bail by this Court in CRM-M-38687-2023 vide order dated 06.09.2023. Learned counsel would further contend that the main accused was known to the victim for the past three years and the victim herself in her statement recorded under Section 164 of CrPC has stated that she is known to the accused for past three years and that she intends to marry Siddharth. On 08.04.2023 she went to Jodhpur with Siddharth without informing anybody and that no wrong act was committed with her. Learned counsel would further contend that the petitioner has been in custody for a period of 5 months and 29 days.

3. 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 5 months and 29 days. Learned counsel for the State is not in a position to deny the fact that the petitioner was nominated on the basis of the disclosure statement of the main accused, who has since been granted the concession of regular bail by this Court in CRM-M-38687-2023 vide order dated 06.09.2023. Learned counsel is also not in a position to deny the fact that the victim in her statement recorded under Section 164 of CrPC has categorically stated that on 08.04.2023 she had voluntarily gone with the main accused and no wrong was committed with her.

4. Heard.

5. In the present case the petitioner was neither named in the FIR nor in the statement of the victim recorded under Section 164 of CrPC. The present petitioner was indicted on the basis of the disclosure statement of the

main accused, namely, Siddharth, who has already been enlarged on regular bail by this Court vide order dated 06.09.2023 passed in CRM-M-38687-2023. Even qua the main accused, the victim in her statement recorded under Section 164 CrPC has stated that she had voluntarily gone with him to Jodhpur and no wrong act was committed with her. The petitioner has been in custody for a period of 5 months and 29 days. 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.

6. 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.

7. 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.

8. 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.

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

12.10.2023
Aman Jain

(ALKA SARIN)
JUDGE

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