

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-51281-2023(O&M)

Date of decision: 13.10.2023

Sandeep Shab @ Sahu

...Petitioner(s)

Vs.

State of U.T. of Chandigarh

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Ms,Monika Thakur, Advocate
for the petitioner.

Mr. Tarun Vir Singh, APP U.T. Chandigarh with Parvinder
Singh, ASI.

NIDHI GUPTA, J.

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.67 dated 25.04.2022 under Sections 363, 366, 376(2)(n) and 376(3) IPC and Section 6 of POCSO Act, 2012 registered at Police Station Sector-31, Chandigarh (Annexure P1).

2. FIR in the present case was registered on the basis of statement of mother of the victim and the same reads as follows:-

"Sir, SHO P.S. Sector-31, Chandigarh, Sir it is requested that I am Shaya Devi W/o Pintu Shab, R/o H.No.13, Faida, Chandigarh living on rent, I have five children, m elder daughter name is Neha Kumari second is Khushi Kumari third is Sunami Kumari and fourth is Shivani Kumari, my son is youngest among them his name of Shivam Kumar. My younger daughter Shivani Kumari D/o Pintu Shab aged 13 yrs 8 months born on 14.07.2008, from yesterday my daughter is missing from home i.e. 24.04.2022 at about 10 am she told my son that

she would be back home soon but haven't returned back since then. I have searched her ever where at my level but couldn't find her. I am not able to trace her so kindly take appropriate legal action to trace her by publishing her pictures on T.V and Newspapers....".

3. Learned counsel for the petitioner inter alia submits that the allegations made in the FIR are false and fabricated. The petitioner has been in custody for over one year and material witnesses stand examined and therefore no useful purpose would be served by keeping the petitioner behind bars. Learned counsel for the petitioner prays that present petition may be allowed and the petitioner be granted the concession of bail.

4 Learned counsel for respondent-U.T. files Custody Certificate dated 13.10.2023 and CFSL report dated 24.06.2022 which are taken on record. As per the custody certificate the petitioner is in custody as undertrial for 1 year 5 months and 10 days. Learned counsel vehemently opposes the grant of regular bail to the petitioner and submits that the victim in the present case was only 14 years of age at the time of occurrence, whereas the petitioner is 35 years of age. It is submitted that victim was impregnated by the petitioner and as per CFSL report dated 24.06.2022, DNA of the aborted foetus has matched with DNA of petitioner. It is further submitted that the complainant and the victim in their respective testimonies have supported the case of the prosecution; and all the 19 prosecution witnesses stand examined. The case is now at the stage of defence evidence.

5. I have heard the learned counsel for the parties.

6. Without commenting on the merits of the matter, however, keeping in view the totality of the facts and circumstances of the case including the heinous nature of the offence alleged to have been committed by the petitioner; as also the fact that the trial is at the stage of defence evidence and is therefore at its fag end and likely to be concluded soon, present petition accordingly stands **dismissed**.

7. However, nothing stated above shall be construed as an expression of opinion on the merits of the matter.

8. Pending application(s) if any also stand(s) disposed of.

13.10.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No