

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**287****CRM-M No.51848 of 2023****Date of Decision : 30.10.2023**

Anil

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mukesh Yadav, 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.167 dated 11.03.2022 under Sections 363, 366, 376(2)(i), 415 and 201 of the Indian Penal Code, 1860; Section 9 of the Prohibition of Child Marriage Act, 2006 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Shivaji Colony, Rohtak District Rohtak.

2. FIR in the present case was registered on the statement of the uncle of the victim wherein he stated that on 11.03.2022 his niece had gone to the school at about 07.30 (a.m. or p.m. has not been mentioned) to attend a party at the school and when he enquired he came to know that there was no party at the school. When his niece did not come back he searched for her everywhere. Since she was not found hence the FIR was registered. The victim in the present case was recovered on 23.03.2022 and her statement

was recorded under Section 164 CrPC wherein she has stated that she left the house on her own accord and had solemnized her marriage with the petitioner herein.

3. Learned counsel for the petitioner would contend that the statement of the victim has since been recorded as PW1 wherein she has stated that she had left on her own accord and that thereafter the petitioner and she had solemnized their marriage. They had also taken protection from this Court. It has further been stated that her medical was got conducted due to pressure exerted by her uncle. Learned counsel for the petitioner would further contend that there is no medical evidence to support the case of the prosecution.

4. Learned State counsel on instructions from SI Chand Kaur is not in a position to deny the fact that the victim has not supported the case of the prosecution. Even in her statement under Section 164 CrPC she has not supported the case of the prosecution. There is no medical evidence on the record in support of the allegations made in the FIR.

5. Learned State counsel has filed the custody certificate as per which the petitioner has been in custody for a period of 01 year 06 months and 22 days.

6. I have heard learned counsel for the parties.

7. In the present case the victim in her statement recorded under Section 164 CrPC has stated that she had left on her own accord and that she had solemnized her marriage with the petitioner. Even in her statement recorded under Section 164 CrPC she has not supported the case of the prosecution and has stated that she left on her own accord and solemnized her marriage with the petitioner and thereafter had also sought protection

from this Court. There is no medical evidence on the record in support of the allegations as made against the petitioner in the FIR. The petitioner has already been in custody for a period of 01 year 06 months and 22 days.

8 In view of the above and without commenting upon the merits of the case, I deem 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, if not required in any other case, subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

9. 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.

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.

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

(ALKA SARIN)
JUDGE

30.10.2023
jk

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