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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-52815-2023 (O&M)
Date of decision : 21.11.2023

Kamruddin

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.K. Saini, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana for respondent No.1.

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.452 dated 15.03.2023 under Sections 365, 120-B, 467, 468, 471 of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Civil Lines Karnal, District Karnal (Annexure P-1).

2. The FIR in the present case was registered on the complaint of the father of the victim who stated that on 15.03.2023 she was left at her school at 08.00 AM and that she had not returned home and when he went to pick her up, she was not found there. On the basis of the said complaint, the present FIR was lodged.

3. Learned counsel for the petitioner would contend that the petitioner is the brother-in-law of the main accused Guddu Khan and that he

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was neither named in the FIR nor in the statement of the victim recorded under Section 164 CrPC. Learned counsel would further contend that even the petitioner's name was not disclosed in any disclosure statement and it is on the basis of his own disclosure statement that he has been nominated in the present case. Learned counsel would further contend that the victim in her statement recorded under Section 164 CrPC on 03.08.2023 stated that she had left on her own accord on 15.03.2023 with the co-accused Guddu Khan. It is further the contention of learned counsel for the petitioner that the petitioner has been in custody for a period of 04 months and 17 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 04 months and 17 days and that there is no other case pending against him. Learned counsel for the State on instructions from ASI Bansi Lal is not in a position to deny that the petitioner was neither named in the FIR nor in the statement of the victim recorded under Section 164 CrPC. Learned State counsel is also not in a position to deny that the victim in her statement recorded under Section 164 CrPC has stated that she had voluntarily gone with the co-accused Guddu Khan.

5. Heard.

6. In the present case the petitioner, who is the brother-in-law of the main accused Guddu Khan, was neither named in the FIR nor by the victim in her statement recorded under Section 164 CrPC. The petitioner's name does not find mention in the disclosure statement of the main accused

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and he has been nominated on the basis of his own disclosure statement. There is no other incriminating evidence qua the petitioner in the present case. The victim in her statement recorded under Section 164 CrPC has stated that she had gone with Guddu Khan on her own accord. As per the custody certificate the petitioner has been in custody for a period of 04 months and 17 days and that 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.

21.11.2023

Yogesh Sharma

(ALKA SARIN)
JUDGE

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