

CRM-M-52567-2023 (O&M)

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

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CRM-M-52567-2023 (O&M)

Date of decision:- 20.10.2023

GAURAV

... Petitioner

Vs.

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Neeraj Goel, Advocate for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G. Haryana.

Manisha Batra, J. (Oral)

The present petition has been filed by the petitioner Gaurav under Section 439 of Cr.P.C. seeking regular bail in criminal case arising out of FIR No.101 dated 04.09.2022 registered under Sections 363, 366-A of IPC and with subsequent addition of offence punishable under Sections 376(2) (n), 366, 506 of IPC read with Sections 6 and 17 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act').

2. Shorn of unnecessary details, the allegations, as levelled by the complainant in the aforementioned FIR are that the victim (name withheld) who is his eldest daughter and is a minor, was found missing from his house since the night of 03.09.2022 and he suspected that it was the present petitioner-accused, who had allured his daughter and kidnapped her.

Initially, a case under Sections 363 and 366-A of IPC was registered. The victim was recovered on 07.09.2022 and recorded her statement before the police disclosing that she had gone with the petitioner and no wrong act had been done with her. On the same day, another statement was recorded by her making allegation that the accused had enticed her away and besides committing rape upon her, had extended threats to kill her. On the same day, her statement was recorded before the Magistrate, wherein she stated that she had gone with the petitioner out of her own will.

3. During investigation, offences under Sections 376(2), 506 of IPC and Sections 6 and 17 of the POCSO Act were added. The petitioner was arrested on 08.09.2022. The bail application filed by him before learned Sessions Court had been dismissed.

4. Learned State counsel has accepted notice of the petition and has submitted that investigation has completed and challan has been presented against the accused. Even the statement of the prosecutrix has also been recorded wherein she has reiterated the allegations levelled against the petitioner.

5. Learned counsel for the petitioner contends that the petitioner is behind bars since 08.09.2022. Challan has since been presented. Charge has been framed. The prosecutrix has made material improvements in her statement as explicit from the copies of her statements as recorded during different stages of investigation and during trial. Therefore, he argued that the petitioner deserves to be given concession of regular bail.

6. Learned State counsel has opposed the prayer made by the

petitioner for grant of relief of regular bail asserting that the allegations against the petitioner are specific and serious in nature. The petitioner is alleged to have enticed away the minor, to have committed rape/forcibly penetrative sexual assault upon the prosecutrix and is further alleged to have extended threats to her. In his examination-in-chief as recorded before learned trial Court, she is shown to have made specific allegations against the petitioner.

7. At this stage, there is nothing on record to state that the prosecutrix was not minor at the time of the occurrence. The allegations against the petitioner being grave, in the considered opinion of this Court, he does not deserve to be given concession of regular bail.

8. Resultantly, the petition stands dismissed.

20.10.2023
pooja saini

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	: Yes/No
<i>Whether reportable</i>	: Yes/No