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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54719-2022
Date of Decision:- 02.02.2023.

KRISHAN KUMAR @ KAKA
Vs.Petitioner

STATE OF PUNJAB ...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Sachin Ohri, Advocate for the petitioner.

Mr. Mohinder Singh Joshi, Additional A.G. Punjab.

AMARJOT BHATTI, J. (Oral)

The petitioner – Krishan Kumar @ Kaka has filed the instant petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.29, dated 23.03.2022 under Sections 363, 366 IPC (offence under Section 376 IPC and Section 4 of POCSO Act added later-on) registered at Police Station Division No. 1, District Pathankot.

The facts of the case are that the complainant gave her statement to the police that her daughter i.e. the victim was born on 24.12.2004 and was studying in 10+1 class in Shaheed Makhan Singh School, Pathankot. Her husband is a daily wager. On 22.03.2022 at about 11:30 A.M, the victim went to her school but did not return home. She tried to locate her with the help of her brother and sister but was unable to find her. She suspected Krishan Kumar @ Kaka regarding this incident. With these allegations, present FIR was registered under Sections 363, 366 IPC. The said victim was recovered on 23.03.2022. She was medically examined

and her statement was recorded under Section 164 Cr.P.C. before the Magistrate on 24.03.2022. After investigation, challan was presented under Sections 363, 366, 376 of IPC and Section 4 of POCSO Act, 2012.

Learned counsel for the petitioner argued that he is falsely implicated in this case. The case was registered due to some misunderstanding. Now, the statements of complainant Anju Bala as well as her daughter i.e. the victim have been recorded and they have not supported the prosecution version. The victim has not levelled any allegation against him when her statement was recorded under Section 164 Cr.P.C. He was arrested in this case on 23.03.2022 and till date, he is in custody. It is prayed that he is ready to abide by the terms of bail order. Therefore, his regular bail application may be allowed.

The bail application is opposed by learned counsel representing the State. The detailed status report is also filed along with the medical record and the statement of victim recorded under Section 164 Cr.P.C. It is alleged in the status report that out of 17 witnesses, only one witness has been examined. Considering the gravity of offence, the petitioner is not entitled to be released on bail.

I have considered the arguments and have gone through the record carefully. The FIR was registered on the statement of mother of the victim in which she had suspected the present petitioner. After the investigation of the case, challan has been presented and after framing of charge, case is fixed for prosecution evidence. Learned counsel for the petitioner has placed on record the statement of complainant as PW1, which is Annexure P-2 and statement of victim as PW2, which is Annexure P-3, where they have not supported the prosecution version. I have also gone through the statement of victim recorded under Section 164

Cr.P.C. dated 24.03.2022, where she again claimed that she had gone to the house of *Bua* of the petitioner on her own and returned back home on the next date. The other prosecution witnesses are yet to be examined. Trial of this case may take some time. Considering the aforesaid facts and without expressing my mind on the merits of the case, the regular bail filed by the petitioner – Krishan Kumar @ Kaka is allowed. He is ordered to be released on bail to the satisfaction of trial Court/Duty Judge concerned.

The petition is, accordingly, accepted.

02.02.2023
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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned: Yes/No.
Whether reportable: Yes/No