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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56598-2022

Date of Decision:- 19.05.2023

Surinder Kumar

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Ms. Usha Rani, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, Assistant A.G. Haryana.

AMARJOT BHATTI, J. (Oral)

Petitioner – Surinder Kumar has filed petition under Section 439 Cr.P.C. for grant of regular bail in FIR No. 145 dated 21.03.2022, under Section 363, 366-A of IPC (offence under Section 376(2)(n), 506 of IPC and Section 6 of POCSO Act added later on), registered at Police Station City Thanesar.

The facts of the case are that the complainant – Akhtar Nami gave his statement to the police that the victim, daughter of Jabir Alam, aged about 17 years was residing with him for the last about five years. He was looking after the victim as she is his sister in relation. On 21.03.2022 at about 08:30 P.M., after taking meal, he went for his duty. His wife and children were present at home. The victim was cooking food in the kitchen and his wife was offering Namaaz. After some time, when the wife of complainant came out, she saw that the victim was not present in the house. With these allegations present FIR was registered. During investigation of the case, the victim was

recovered on 12.04.2022. Her statement was recorded under Section 164 Cr.P.C. She was medically examined. After the completion of investigation, challan was presented in the Court.

The learned counsel for the petitioner argued that he is falsely implicated in this case. He has not committed any offence. He treated the victim as his own children and she was looked after by him and his family. The victim has not levelled any allegations against him when her statement was recorded under Section 164 Cr.P.C. which is Annexure P-2. She was not ready to accompany the complainant and his family. He was arrested in this case and is behind the bars since 13.04.2022. The learned counsel for the petitioner referred to the statements of witnesses recorded in the Court i.e. the statement of victim as PW-8 and statement of complainant as PW-10, who have not supported the prosecution case and were declared hostile. It is argued that trial of this case may take long time. He will 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. Detailed status report is also filed. It is pointed out that after completion of investigation, challan was presented in this case on 20.06.2022 and now the prosecution witnesses are being examined. Fourteen prosecution witnesses have already been examined. The complainant had levelled serious allegations against the present petitioner. Considering the gravity of offence, he is not entitled to the concession of regular bail.

I have considered the arguments and have gone through the record carefully. The statement of the victim recorded before the Magistrate is Annexure R-1 where the victim had levelled allegations against her brother with whom she was residing. Thereafter, the victim has been examined before the trial Court as PW-8. Her statement is Annexure P-5 and the statement of complainant is also recorded as PW-10, which is Annexure P-6. Both these

witnesses did not support the allegations detailed in this case and they were declared hostile. It is matter of record that the petitioner was arrested in this case on 13.04.2022 and since then he is behind the bars. The 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 application filed by the petitioner – Surinder Kumar is allowed. He is ordered to be released on bail to the satisfaction of trial Court/Duty Judge concerned.

The petition is accordingly, accepted.

19.05.2023
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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No