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

CRM-M-57087-2022

Date of Decision:- 06.02.2023

SURAJ YADAV

....Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Ms. Sukhpreet Kaur, Advocate
for the petitioner.

Mr. M.S.Joshi, Addl. A.G. Punjab.

AMARJOT BHATTI, J. (Oral)

The petitioner – Suraj Yadav has filed the instant petition under Section 439 Cr.P.C. for grant of regular bail in FIR No. 0137, dated 03.11.2021 under Section 363, 366 IPC (offences under Section 376(2)(i) (n) IPC and Section 6 of POCSO Act added later on) registered at Police Station Anandpur Sahib, District Rupnagar.

The facts of the case are that the complainant – Moti Lal gave his statement to the police that he is doing labour work. He is having seven daughters and a son. The elder daughter i.e. the victim is 13 years of age and she was studying in 5th class. Suddenly, her daughter got missing on the day of Lohri festival. He tried to search her and later on came to know that his daughter has been enticed away by Suraj Yadav by giving her allurements of marriage. In the morning, he came to know that his daughter was roaming with Suraj Yadav at Gurudwara Sahib, Patalpuri, Kiratpur.

With these allegations, the present case was registered. The investigation was carried out. The victim was recovered and her statement was recorded before the Magistrate under Section 164 Cr.P.C. As per the school record as well as Aadhar card, her date of birth is 08.10.2008. After completion of investigation, challan was presented in the Court. The prosecution has already examined three witnesses and one witness has been partly examined.

Learned counsel for the petitioner argued that the allegations levelled against him are false. The alleged victim in her statement recorded before the Magistrate has not levelled any allegation against him. In fact, she had left the house with her own free will. She was not forcibly raped. Her statement is also recorded before the trial Court as PW2, where she has again confirmed his version and also disclosed her date of birth as 08.10.2003 as per copy of Aadhar card Mark D-1. The material witnesses have already been recorded. As per the custody certificate, he is behind the bars from 10.11.2021. The trial of this case may take long time. Therefore, his regular bail may be allowed.

Bail application is opposed by learned counsel representing the State. It is argued that there are serious allegations against the present petitioner. The victim was 13 years of age when she was taken away by the petitioner. The report of Forensic Science Laboratory is also against the present petitioner. Therefore, considering the gravity of offence, he is not entitled to be released on bail.

I have considered the arguments and have gone through the record carefully. As per the version of father of the victim, it is mentioned that she was 13 years of age at the time of occurrence, whereas, it is the case of petitioner that she was more than 18 years of age. The petitioner

has relied upon one copy of Aadhar card Annexure P-1, where her date of birth is mentioned as 08.10.2003. I have also gone through the copy of MLR where the victim had mentioned her age as 13 years at the time of medical examination. Similarly, when the statement of victim was recorded before the Judge, Special Court, Rupnagar, her age is again mentioned as 13 years. Rest of the prosecution evidence is yet to be recorded. I have also gone through the Forensic DNA test report which is again against the present petitioner. The merits of the case regarding age of the victim as well as the allegations referred above will be decided after evidence of the prosecution as well as the defence raised by the petitioner. As far now, considering the aforesaid facts and the gravity of offence, I do not find a fit case for grant of regular bail to the petitioner – Suraj Yadav and the same is, accordingly, declined.

06.02.2023

*lalit***(AMARJOT BHATTI)**
JUDGE

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