

2023:PHHC:083492

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

103+214

CRM-M No.60895 of 2022 (O&M)
Date of Decision: 04.07.2023

Suryamani

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: ***HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA***

Present:- Mr. Sunil Polist, Advocate
 for the petitioner.

 Mr. Apoorv Garg, Senior DAG, Haryana
 for the respondent-State.

MEENAKSHI I. MEHTA, J. (Oral)

CRM No.26884 of 2023

By way of the present application, the applicant-petitioner seeks permission to place the copy of the statement of the victim on the record as Annexure P-4 and also prays for exempting him from filing the certified and typed copy thereof.

Notice in the application.

Learned State counsel accepts the notice and submits that he has no objection in allowing the instant application.

Keeping in view the above-said fact as well as the reasons as mentioned in the present application, the same is allowed and Annexure P-4 is taken on the record.

CRM-M No.60895 of 2022

By way of the instant petition, the petitioner has sought the relief of regular bail in the criminal case arisen out of the FIR bearing No.54 dated 21.04.2022 registered at Police Station Women, District Bhiwani, under Sections 370, 372, 376(2)(n), 420, 467, 468, 471 IPC and Sections 4(2)(c), 5(1)(D) of the Immoral Traffic (Prevention) Act and also Section 6 of the POCSO Act.

2. Bereft of unnecessary details, the allegations unfolded by the child victim (here-in-after to be referred as 'P') in her complaint, which culminated in the registration of the subject FIR, are that she was 16 years old and had lost both her parents and hence, she started residing with her neighbour named Reena who sold her to Ankit and then, to Meeta and later-on, to Sunil for the sums of Rs.40,000/-, Rs.40,000/- and Rs.45,000/- respectively and thereafter, she and her co-accused, had sold her (P) to Naveen for an amount of Rs.1.4 lac and she (P) had been raped by said Sunil and Naveen. During the investigation of the case, the name of the petitioner has cropped up as an accused who, along-with his co-accused, had allegedly facilitated the sale of 'P' to his another co-accused named Manjeet @ Meeta on the pretext of her marriage with him (Meeta) and had received a sum of Rs.10,000/- in lieu of the same.

3. Reply submitted on behalf of the respondent-State (by way of the affidavit of the Deputy Superintendent of Police, Bhiwani), along-with Annexures R-1 to R-5 and vernacular version of Annexure R-1, is already available on the file and the custody-certificate of the petitioner has been

filed in the Court today and all these documents are taken on the record.

4. I have heard learned counsel for the petitioner as well as learned State counsel in the present petition and have also gone through the file carefully.

5. Learned counsel for the petitioner contends that the name of the petitioner does not find mention in the FIR or in the statement of 'P' as recorded under Section 164 Cr.P.C and moreover, while appearing in the witness-box as PW1, 'P' has neither named the petitioner as an accused nor has identified him in the Court and the disclosure statement, as allegedly suffered by the petitioner, cannot be relied upon to show his participation in the alleged crime and in these circumstances, he deserves the relief as prayed for in this petition.

6. Per contra, learned State counsel argues that 'P' happens to be a minor/child and keeping in view the nature of the offence as committed by the petitioner, the instant petition be dismissed.

7. So far as the contention regarding the name of the petitioner having not been mentioned in the FIR or in the statement of 'P' as recorded under Section 164 Cr.P.C is concerned, the same can and shall be looked in to and adjudicated upon by the trial Court at the appropriate stage after appreciating and evaluating the evidence, as would be led on the record during the course of the trial and it cannot be dealt with while deciding the present bail petition.

8. As regards the contentions qua the petitioner having not been named and identified by 'P' at the time of appearing in the Court as PW1

and his (petitioner's) alleged disclosure statement being not sufficient for implicating him in the instant case, these aspects shall also be the subject matter for consideration and decision before the trial Court at the relevant stage and the same can also not be determined/ascertained at the time of deciding this petition.

9. Then, during the course of arguments, learned State counsel, on the instructions from Inspector Saroj Bala from the afore-mentioned Police Station, has informed the Court that out of total 25 witnesses as cited by the prosecution, 18 witnesses have already been examined before the trial Court, meaning thereby that the trial in the case under reference is nearing its conclusion.

8. Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner in the present case, this Court is of the considered opinion that he (petitioner) does not deserve the concession/relief of regular bail. Resultantly, the petition in hand stands dismissed accordingly.

04.07.2023

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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No