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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.61077 of 2023
Date of decision : 11.12.2023

Pardeep

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Amit Chaudhary, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

Present fourth petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.237, dated 24.04.2021, under Sections 6, 17 of POCSO Act, 2012, Sections 376(2)(n), 313, 506, 34 of IPC, 1860 and Sections 10, 11 of Child Marriage Prohibition Act, 2006 (Sections 10, 11 of Child Marriage Prohibition Act and Section 17 of POCSO Act added later on), registered at Police Station Samalkha, District Panipat, Haryana.

Adumbrated facts of the case are that the FIR in the present case was lodged on the statement of the petitioner himself, who happens to be the father of victim. It has been alleged by the petitioner that his daughter is about 15 years of age. He submits that he wanted to purchase a house in Samalkha and Sandeep (co-accused) was the property dealer. He has alleged that on account of the same, Sandeep started coming to

their house and developed relationship with his minor daughter. He submits that his daughter was sexually assaulted by Sandeep and on account of this, she became pregnant. It is submitted that Sandeep got his minor daughter medically examined and thereafter without bringing to their notice, the pregnancy was terminated as well. He submits that later on his daughter disclosed the whole incident to them and hence, he lodged the FIR to take legal action against co-accused, Sandeep. On the registration of formal FIR, the investigation commenced. During the investigation, the petitioner, on whose statement the FIR was lodged, was also nominated as accused in this case. The petitioner was arrested on 11.08.2021. Aggrieved by the same, the petitioner approached the Court of Additional Sessions Judge/Fast Track Court (POCSO), Panipat for grant of bail and the same was declined vide order dated 21.02.2023. The petitioner on the earlier occasions also approached this Court thrice by way of filing the petitions, however, the same were allowed to be dismissed as withdrawn by this Court. Hence, the petitioner has approached this Court again by way of filing the present fourth petition for grant of bail.

Learned counsel for the petitioner has contended that the petitioner is father of the victim and had lodged the FIR on coming to know about the sexual assault committed with his daughter by co-accused, Sandeep. He submits that the petitioner has been arrayed as an accused during investigation in this case being father of the victim on the allegation that he had illegally married his minor daughter by manipulating record of her date of birth. He submits that the allegations made against

the petitioner are totally false and fabricated. He submits that the victim has been examined by the trial Court and she has not supported the case of prosecution and thus, has been declared hostile. He submits that the petitioner has no criminal antecedents. He submits that even otherwise co-accused Sandeep who is the main accused, has already been granted bail by this Court in **CRM-M-24623-2022** vide order dated 27.01.2023. He has submitted that once the main accused has been granted bail, the petitioner deserves to be granted bail.

Per contra, learned State counsel has opposed the submissions made by learned counsel for the petitioner. She, on instructions from ASI Manoj Kumar, has submitted that the petitioner is the father of victim and he was having hand in gloves with co-accused Sandeep. She submits that the petitioner manipulated record regarding the age of his minor daughter and thus, conspired to marry her with co-accused Sandeep. She submits that though the prosecutrix has turned hostile, however, there is ample evidence against the petitioner for the offence committed against his minor daughter. She submits that out of 21 prosecution witnesses, 8 have already been examined including the prosecutrix.

Heard.

Evidently, the petitioner is the father of victim on whose instance the present FIR was lodged. Though he was nominated as an accused in this case during investigation on the allegation that he abetted the offence against his daughter by illegally marrying his victim daughter with Sandeep. Co-accused Sandeep has already been granted bail by this

Court vide order dated 27.01.2023. There is nothing on record to show that the petitioner has any criminal antecedents. As submitted before this Court, the victim has already been examined and she has not supported the case of prosecution.

This Court would refrain itself from commenting anything on merits of the case. However, considering the prayer for grant of bail to the petitioner, this Court is of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

11.12.2023
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No