

CRM-M-2798-2024 (O&M)

221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:114057



CRM-M-2798-2024(O&M)
DATE OF DECISION : 02.09.2024

SHIV KUMAR SAINI	... PETITIONER
V/S	
STATE OF HARYANA	... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. A.K.Khubbar, Advocate for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

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HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed by the petitioner under Section 439 of the Code of Criminal Procedure seeking regular bail in case FIR No. 167 dated 18.08.2022 under Sections 323, 328, 363, 366, 506 IPC and Section 6 of Protection of Children from Sexual Offences Act, registered at Police Station Women, District Karnal.
2. As per the allegations against the petitioner, he along with his co-accused have threatened the daughter of the complainant and forcibly took her to Sector 4, Karnal. Both the petitioner and his co-accused are alleged to have committed rape upon the prosecutrix who ultimately reached home on the next date i.e. 15.08.2022.
3. I have heard the counsel for the parties and perused the relevant record.
4. Custody certificate dated 30.08.2024 and status report by way

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of affidavit of Sushil Kumar, HPS, Deputy Superintendent of Police, Karnal, Nilokheri have been taken on record whereby this fact has been mentioned that there were 2 victims; victim 'D' whose date of birth is 24.01.2007 and victim 'K' whose date of birth is 24.01.2008 as per the School Leaving Certificates (Annexure R-1 and R-2 respectively). The co-accused of the petitioner is 'child in conflict with law' (juvenile). It has been confirmed that co-accused of the petitioner has already been released on bail. As per the custody certificate, the petitioner has undergone 02 years and 08 days of custody.

5. Referring to the status report, learned State counsel has confirmed that the statements of the victim 'D' (PW-1) and victim 'K' (PW-2) have been recorded during trial. They have supported the prosecution case to the extent that they have been kidnapped and were drunk by the petitioner and his co-accused the 'child in conflict with law'. However, they have stated that no wrongful act has been committed by the petitioner and his co-accused. The statements of the victims recorded during the trial are Annexure P-8 and P-9. It is further confirmed that parents of both the victims have already been examined and they have not supported the prosecution case. As per the report of FSL (Annexure R-3 and R-4), there is no incriminating evidence against the petitioner.

6. As per the custody certificate, the petitioner has undergone 02 years and 08 days of custody and his co-accused facing the same allegations has already been released on bail. Consequently, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the

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7. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.
8. Pending miscellaneous application(s), if any, shall stand disposed of.

02.09.2024
Janki

(HARPREET KAUR JEEWAN)
JUDGE

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