

221 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-4392-2024
Date of decision: 2nd April, 2024

Ajay @ Bhola

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Arpandeeep Narula, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Date	Police Station	Sections
30	12.02.2022	Kalka, District Panchkula	363, 366, 366-A and 506 of Indian Penal Code, 1860 (for short 'IPC') and Section 6 of POCSO Act, 2012

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the abovementioned FIR was registered by the complainant 'R' (name withheld) alleging therein that victim 'P' (name withheld) who was her thirteen years' old daughter had gone missing from the house since the evening of 11.02.2022. On conducting of search, she had come to know that her daughter (the victim) had been forcibly taken away

by accused Rohit, who was already having an evil eye on her daughter. After registration of the FIR, investigation proceedings were initiated. The victim was recovered from the custody of co-accused Rohit on 17.02.2022. She was medically examined. Her statement under Section 164 of Cr.P.C. was recorded before the police, wherein she disclosed that on 11.02.2022 while she was going to Kali Mata Mandir, Kalka, the present petitioner and co-accused Rohit had chased her and made her sit in an auto rikshaw and had threatened to kill her. She also stated that the present petitioner had left the auto rikshaw near bus stand Pinjore and from there she was taken away by the co-accused Rohit at Ludhiana who had kept her confined and had ravished her. During the course of investigation, present petitioner was arrested on 02.04.2022. The co-accused was also arrested. Presently, both of them are facing trial before the learned trial Court.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. There is no allegation qua complicity of the petitioner in offences punishable under Sections 366, 366-A and 506 of IPC and Section 6 of POCSO Act. Even if the version in the FIR is believed, still the only involvement of the petitioner was of helping the co-accused Rohit in forcibly taking away of the victim. The ingredients for commission of offences punishable under Sections 366 and 366-A of IPC are not fulfilled. Trial is likely to take time. No useful purpose would be served by keeping him in custody. It is urged that the petitioner deserves to be given concession of bail.

4. Status report filed by learned State counsel is taken on record. Learned State counsel has argued that there are serious and specific allegations against the petitioner. He, in connivance with the co-accused had kidnapped the victim out of lawful custody of her guardians and thereafter, she was kept confined and subjected to acts of aggravated penetrative sexual assault by the co-accused Rohit. Therefore, it is argued that petitioner does not deserve to be given concession of bail.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The allegations as levelled against the petitioner are that on the fateful day, he along with the co-accused Rohit had chased the victim and had helped him in making the victim board in an auto rikshaw. From these allegations, it is debatable question as to whether, the ingredients for commission of offences punishable under Sections 366 and 366-A of IPC have been made out against the petitioner or not? The allegations qua commission of acts of aggravated penetrative assault against the prosecutrix has also not been levelled against him but as against the co-accused. Keeping in view the nature of allegations which have been levelled against the petitioner, the period spent by him in custody and the fact that there is likelihood of the trial taking time, in my opinion, the further detention of the petitioner would not serve any useful purpose. Hence, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/

Duty Magistrate concerned.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

2nd April, 2024
Parveen Sharma

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