

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

CRM-M-4855-2024

DATE OF DECISION : 05.02.2024

HARISH

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Farukh Abdullah, Advocate for the petitioner.

Ms. Aditi Girdhar, AAG Haryana.

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HARPREET KAUR JEEWAN, J. (ORAL)

1. The present petition has been filed under Section 439 Cr.P.C. read with 482 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No. 93 dated 31.05.2023 (Annexure P-1) registered under Sections 363, 376, 120-B, 506 of the IPC at Police Station Bichhore, District Nuh, Haryana.

2. The FIR was registered at the instance of the father of the victim alleging that her daughter was missing since 28.05.2023 and he came to know that petitioner had enticed away her daughter. He received a phone call from Ambala police that his daughter is at Ambala station. When he reached there, the custody of his daughter was handed over to him.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case. The prosecutrix is major, her statement was recorded during the trial as PW2 and she has not supported the prosecution version in her cross-examination. The co-accused of the

petitioner was declared innocent by the Police during the investigation. The petitioner is in custody since 07.06.2023.

4. Mr. Talim Hussain, Advocate appearing on behalf of the complainant has filed power of attorney and contends that he has no objection if the petitioner is released on bail.

5. On the other hand, learned State counsel has opposed the bail application on the ground of gravity of allegations. It was submitted that during her statement under Section 164 Cr.P.C., the prosecutrix has fully supported the prosecution case.

6. As per the testimony of the prosecutrix recorded on 20.12.2023 she has disclosed her age as 19 years. The alleged date of occurrence is 28.05.2023. So as per her version, she was more than 18 years of age even on the day of occurrence. In her examination-in-chief, the prosecutrix has stated that present petitioner did not do any wrong with her. She had went with the petitioner on her own wish and she wants to get married to the petitioner and she does not want to go with her family. In the cross-examination, she has stated that her previous statement was recorded under the pressure of her family. The Court observations have also been recorded that witness is changing her version. She was given a warning by the Court that strict action will be taken against her if she will not disclose true facts. In an answer to the Court question, she has testified that she is making the statement in the Court without any fear and pressure and she further stated that she made the statement in examination-in-chief under the pressure of the parents. She had admitted the letter, Exhibit D-2, having been written by her to the petitioner. She was re-examined by the public prosecutor.

Despite that she does not support the prosecution version.

7. The petitioner is in custody since 07.06.2023. As per the State counsel, some witnesses are yet to be examined. There is no medical evidence.

8. In view of the aforesaid facts and circumstances and without expressing any opinion on the merits of the case, the application is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds/surety to the satisfaction of the trial Court/Chief Judicial Magistrate, concerned.

05.02.2024

Janki

(HARPREET KAUR JEEWAN)
JUDGE

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