

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211

CRM-M-8631-2024 (O&M)
Date of Decision: 25.04.2024

AJAY KUMARPetitioner

VERSUS

STATE OF HARYANA AND ANR.Respondents

CORAM : HON’BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. H.S. Sandhu, 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
423	02.11.2022	P.S. Ram Nagar Karanl, District Karnal	363, 366-A of IPC and later on Section 376(2)(n), 376(3) and Section 6 of POCSO Act, 2012 added

2. Brief facts relevant for the disposal of this case are that the
aforementioned FIR was registered on 02.11.2022 on the basis of complaint
lodged by the complainant-O(name withheld) alleging that the victim-
B(name withheld) who was her 15 years old daughter had been enticed away
by the petitioner at about 2.30 PM on the same day on the pretext of
performing marriage with her. Initially a case under Sections 363 and 366-A
of IPC was registered. Investigation proceedings were initiated. The victim

was recovered on 14.11.2022. Her statement under Section 164 Cr.P.C was recorded wherein she stated that she had voluntarily left her house. Her parents were no more. Her uncle and aunt wanted to forcefully perform her marriage with a 30 year old man as they had eye on the property of the said man. Her grand-mother also used to misbehave with her and they were bent upon killing her if she would not have left her house. She also stated that the petitioner had no hand in her leaving the house and it was she who had compelled him to go along with her. The medical examination of the petitioner was conducted. Subsequently, offences under Sections 376 2(n) and 376(3) of IPC read with Section 6 of POCSO Act, 2012 were added. The petitioner was arrested on 14.11.2022. After completion of necessary investigation and usual formalities, challan was presented against him in the Court and presently the petitioner has been facing trial before the learned Trial Court for commission of the aforesaid offences. He had moved an application for grant of regular bail before the learned Trial Court which had been dismissed vide order dated 16.01.2024.

3. The present petition has filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. The prosecutrix did not involve him in commission of the subject offences while recording her statement under Section 164 of Cr.P.C and even while appearing as a witness before the learned Trial Court. He is in custody for a period of more than one and a half year. No useful purpose would be served by his further detention. Therefore, it is urged that petitioner deserves to be released on bail.

4. Status report has been filed by respondent-State, as per which,

the minor prosecutrix had been enticed away and ravished by the petitioner. She was below the age of 16 years and her consent was immaterial. The petitioner had compelled her to solemnize marriage with him. Allegations against him were serious in nature. Hence, it is argued that the petitioner does not deserve to be given concession of bail.

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

6. The petitioner is alleged to have enticed away the minor prosecutrix and is further alleged to have ravished her. Annexure P-4 is copy of testimony of the prosecutrix as recorded before the learned Trial Court wherein she is shown to have stated that on 02.11.2022, she had gone with the petitioner with her own sweet will and rather she had forced him to take her along with him and that no wrongful act was committed with her by the petitioner. The prosecutrix is shown to have been declared hostile, on request of learned Public Prosecutor and was cross examined in detail but no incriminating evidence is shown to have been extracted by way of her cross examination so as to infer commission of offences for which the petitioner is being tried by the learned Trial Court. The trial is likely to take time. The petitioner is in custody for a period of more than one and half years.

7. Keeping in view the nature of the evidence which has come on record in the form of testimony of the prosecutrix, the incarceration period of the petitioner and the attending facts and circumstances of the case but without commenting upon the merit of the case, I am of the considered opinion that the petitioner deserves to be given concession of regular bail.

Accordingly, the petition is allowed and the petitioner is directed to be

released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

8. Pending applications, if any, also stand disposed off.

25.04.2024
Deepak Patwal

(MANISHA BATRA)
JUDGE

- | | | |
|----|----------------------------------|---------------|
| 1. | <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| 2. | <i>Whether reportable</i> | <i>Yes/No</i> |