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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-9210-2024

Date of decision: 2nd April, 2024

Sahil

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ankur Lal, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

CRM-13574-2024

This application has been filed for impleading the complainant as respondent No.2 but has been rendered infructuous to that extent as the complainant already stands impleaded as respondent No.2 vide order dated 26.02.2024. Amended memo of parties has however been filed which is ordered to be tagged at the appropriate place.

Application stands disposed of.

Main case

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
231	14.07.2022	Bawal, District Rewari	363, 366-A and 376 of Indian Penal Code, 1860 (for short ‘IPC’) and Section 4 of POCSO Act

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of statement recorded by the complainant 'P' (name withheld) alleging that as on 14.07.2022, victim 'A' (name withheld) who is her daughter had left for her school at 8:00 AM and she herself had gone to work and on coming back, she had found some cash and mobile phone kept in her house to be missing. On suspicion, she contacted the school authorities of her daughter and came to know that she had not gone to attend the school on that date. She disclosed that her daughter used to talk with someone on mobile phone No. XXXXX through mobile phone of her husband. On these allegations, initially a case under Sections 363 and 366 of IPC was registered. Investigation proceedings were initiated. The victim was recovered from the custody of the petitioner from Gurugram on 15.07.2022. Her statement under Section 164 of Cr.P.C. was recorded on the same day, wherein she stated that she had gone with the petitioner to Gurugram and had stayed at the house of one of the friends of the petitioner and physical relationship had been developed between them. The petitioner was arrested on 15.07.2022. The victim was medically examined. Offence under Section 4 of POCSO Act was added. After necessary investigation and usual formalities, challan was presented and presently, the petitioner is facing trial for commission of aforementioned offences.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the victim was major and had voluntarily accompanied him. Neither the mother of the victim nor she

herself had supported the prosecution version before the learned trial Court. Trial is likely to take time. No useful purpose would be served by keeping him in custody. Therefore, it is argued 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 submitted that there are serious and specific allegations against the petitioner. Victim has been medically examined. It is also submitted that as per the instructions received by him, the seminal stains detected on the clothing of the victim had matched with the blood samples of the petitioner. It is, therefore, argued that the petition does not deserve to be allowed.

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 petitioner is alleged to have enticed away the minor prosecutrix on the pretext of performing marriage with her and is further alleged to have ravished her. However, neither the victim nor the complainant who is her mother are shown to have supported the allegations as levelled by them, while stepping into the witness box before the learned trial Court. Both these witnesses are shown to have claimed that the victim was major at the time of occurrence. The victim even stated that she had established consensual relationship with the petitioner out of her own will and had accompanied him voluntarily. As the most material witnesses of the prosecution have not supported the version of the prosecution, therefore,

keeping in view this fact as well as the period of incarceration of the petitioner, I am of the considered opinion that the petitioner deserves to be given concession of bail as no useful purpose would be served by keeping him in custody. Hence, the petition is allowed, 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