

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

220 CRM-M-11313-2024 (O&M)  
Date of decision: 20.08.2024

ROOPAK ALIAS ROCKY ...Petitioner  
Versus

STATE OF HARYANA ...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Kunal Dawar, Advocate with  
Mr. Gaurav Bajaj, Advocate  
for the petitioner.

Mr. Amrik Singh Narwal, DAG, Haryana.

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HARPREET KAUR JEEWAN, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.215 dated 30.06.2021 under Sections 363, 366-A IPC and Section 4 of the POCSO Act, 2012 registered at Police Station Kotwali, District Faridabad.
2. Custody certificate dated 19.08.2024 has been filed on behalf of the respondent-State, which is taken on record.
3. Status reply by way of an affidavit of Virender Kumar, HPS, Assistant Commissioner of Police, Badkhal, District Faridabad along with documents filed on behalf of the respondent-State are taken on record.
4. The petitioner is facing trial with the allegations that he had forcibly enticed away the minor prosecutrix and committed sexual assault upon her. Initially, the FIR was registered at the instance of the father of the prosecutrix, who reported the matter to the police that on the intervening night of 30.06.2021,



his daughter aged about 17 years was enticed away by the petitioner. Thereafter, the victim was recovered from the house of the petitioner.

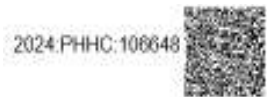
5. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case and he is in custody since 02.07.2021. He further contends that there was a consensual relationship *inter se* the petitioner and the prosecutrix. The statement of the prosecutrix under Section 164 Cr.P.C. (Annexure P-2) has already been recorded. Investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. The petitioner is ready to face trial. He further submits that the trial is going to take time to conclude, as such, prayer for releasing the petitioner on bail has been made.

6. On the other hand, learned State counsel has opposed the bail petition on the ground of gravity of allegations against the petitioner. It is contended that as per the medical opinion (Annexure R-1), the possibility of sexual intercourse cannot be ruled out. There are total 25 prosecution witnesses and 12 witnesses have already been examined.

7. I have heard the learned counsel for the parties and perused the relevant documents.

8. As per the statement of the prosecutrix recorded under Section 164 Cr.P.C. (Annexure P-2), the prosecutrix has not alleged that she was forcibly taken away by the petitioner. The said statement reads as under:

‘Stated that in the night of 29 June, at about 12.30 AM mid night I had gone to F- Block to meet Rocky. We had gone by taking someone's bike, I and Rocky are friends since September. He used to ask me for marriage. He had asked me that we will marry and will leave separately because of this I had gone at night with him. Thereafter, I came to know that my father had got registered a case. Then I called at my home and told them not to register a case and that I will return back. Thereafter, police came at the room in F Block and caught Rocky.’



9. Statement of the prosecutrix has also been recorded during the trial (Annexure P-4). Even in the said statement, the prosecutrix has stated that Rocky (petitioner) did not do anything to her while she stayed with him. She has also stated that there is no pressure on her while making the said statement.

10. Investigation is complete and the final report under Section 173 of the Code of Criminal Procedure has been presented before the trial Court. As per the custody certificate, there is no history of other cases against the petitioner. Allegations and counter allegations are matter of trial. The petitioner is in custody for 03 years 01 month and 19 days. Statement of the prosecutrix has already been recorded. There are total 25 witnesses and only 12 witnesses have been examined so far, as such conclusion of the trial is going to take time.

11. In view of the above, the petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

12. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

13. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN )  
JUDGE

20.08.2024  
P.Bhatt

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |