



221 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-12217-2024
Date of decision: 15th May, 2024

Sagar
Versus
State of Haryana and another
...Petitioner(s)
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vikas Gulia, 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
307	11.08.2023	Barauda, District Sonipat	363, 366-A of IPC,1860 (Sections 376, 506, 34 of IPC and Sections 4 and 17 of POCSO Act added later on)

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 a written complaint filed by the complainant ‘D’ (name withheld) alleging therein that on the intervening night of 08.08.2023, his younger daughter ‘A’ (name withheld) studying in 10th Class had left the house without informing anyone and he suspected that she had been induced away by the accused

Hari Om son of Ram Bhagat resident of village Ranakheri. Initially, a case



under Sections 363 and 366-A of IPC was registered. Investigation proceedings were initiated. The victim was recovered from Bahalgarh, Sonipat on 11.08.2023. Her Statement under Section 164 of Cr.P.C. was recorded on 11.08.2023 wherein she alleged that on the night of 08.08.2023, she was sleeping in a room of her house when the petitioner called her on her phone and by extending threats to her, called her outside her house. He also told her to bring jewellery from her house and otherwise threatening to kill her brother. On coming out, she found four more persons to be present along with the present petitioner, three of whom were Lakshay, Jai Karan, Hari Om and the forth one was unknown to her. The petitioner had stayed there, whereas the remaining four took her towards Karnal, where the accused Hari Om had committed rape upon her and next day, the petitioner informed his friends that the police had initiated action and then the accused Hari Om stayed with her, whereas the remaining three had fled. Her statement under Section 161 of Cr.P.C. was recorded on 12.08.2023, wherein she narrated all the facts in detail and also that the petitioner along with the accused Hari Om and three more boys had forcibly taken her out of her house and the accused Hari Om had committed rape upon her. Offences under Sections 376 and 506 read with Section 34 of IPC and Section 4 of POCSO Act were added subsequently. The victim was medically examined. The petitioner and co-accused Hari Om were arrested on 12.08.2023. Thereafter, offence under Section 17 of POCSO Act was also added. Investigation has since been completed and challan has been presented in the Court. The petitioner had filed an application for grant of regular bail before



the Court of learned Additional Sessions Judge, Sonipat which was dismissed on 10.01.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. The allegations for commission of offences punishable under Sections 376 of IPC and 4 and 17 of POCSO Act have not been levelled as against him. He is in custody since 12.08.2023. His custodial interrogation is no more required. The trial is likely to take time. No useful purpose would be served by his further detention. Therefore, it is argued that he deserves to be given concession of bail.

4. Respondent No.2 complainant was duly served but there is no representation on his behalf.

5. Status report has been filed by respondent-State. It is submitted therein and learned State counsel has argued that there are serious allegations against the petitioner. There are chances of his intimidating the witnesses or absconding, if extended benefit of bail as the victim and other material witnesses are yet to be examined. Therefore, it is argued that the petition does not deserve to be allowed.

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

7. The victim, who is a minor girl, is alleged to have been taken out of lawful guardianship of her parents on the intervening night of 8/9.8.2023 and is further alleged to have been induced to leave her house



with intent to be seduced to illicit intercourse by the co-accused and is also alleged to have been ravished by the co-accused Hari Om. The part which is attributed to the petitioner is that it was he, who had made a telephonic call to the victim to come out of her house on the fateful night by extending threats to her and who had abetted the offence of kidnapping of the victim by the co-accused. The petitioner is in custody since 12.08.2023. Challan has been presented in the Court. Trial is likely to take time. His custodial interrogation is no more required. It is well settled proposition of law that the bail is the rule and jail is an exception. Keeping in view the nature of the allegations which have been levelled against the petitioner, the part played by him, the period of his incarceration and the attendant facts and circumstances of the case, but without meaning to make any comment on the merits thereof, I am of the considered opinion that the petitioner deserves to be released on bail at this stage. 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.

8. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

9. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

15th May, 2024

Parveen Sharma

- 1. Whether speaking/ reasoned
- 2. Whether reportable

: Yes / No
: Yes / No