

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****241****CRM-M No.15927 of 2024****Date of Decision : 04.07.2024**

Ashish Kumar alias Aman

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Balraj Gujjar, Advocate for the petitioner.

Mr. Jagdish Manchanda, Addl. AG Haryana.

ALKA SARIN, J. (Oral)

1. This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.802 dated 31.12.2022 under Sections 363 and 366-A of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Mujesar, District Faridabad. The first petition being CRM-M-38280-2023 was dismissed vide order dated 29.11.2023.

2. Mr. Balraj Gujjar, Advocate has put in appearance on behalf of the petitioner and has filed his *vakalatnama* with no objection from earlier counsel, which is taken on record. Learned counsel would contend that the change in the circumstances is that the victim and the complainant i.e. mother of the victim have since been examined and they have not supported the case of the prosecution. It is further the contention of learned counsel for

the petitioner that the petitioner has already been in custody for a period of 01 year 05 months and 20 days and that there is no other case pending against him. Learned counsel for the petitioner would further contend that out of total 25 prosecution witnesses only 02 have been examined.

3. Learned State counsel has filed the status report by way of affidavit of Sh. Mahesh Kumar, HPS, Assistant Commissioner of Police, Mujesar, Faridabad, which is taken on record. Registry to scan the same and tag at the appropriate place. It has been stated in the status report that statements of the victim and her mother (complainant) were recorded by the Trial Court as PW1 and PW2 on 17.02.2024 and 22.02.2024 respectively and they have not supported the case of the prosecution. Custody certificate has been filed by learned State counsel as per which the petitioner has already been in custody for a period of 01 year 05 months and 20 days.

4. Heard.

5. In the present case the first petition being CRM-M-38280-2023 was dismissed vide order dated 29.11.2023. However, subsequently, the victim and her mother (complainant) have both been examined as PW1 and PW2 and they have not supported the case of the prosecution. The petitioner has already been in custody for a period of 01 year 05 months and 20 days and out of total 25 prosecution witnesses only 02 have been examined till date.

6. In view of the above and without commenting upon the merits of the case and keeping in view the fact that the conclusion of trial is likely to take some time and no useful purpose would be served by keeping the

petitioner behind bars, I deem it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

7. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

8. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

9. Disposed off. Pending applications, if any, also stand disposed off.

04.07.2024
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO