

LAKHBIR @ LAKHI

V/S

...RESPONDENT

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (ORAL)

1. This is the petition filed under Section under Section 439 Cr.P.C. seeking regular bail to the petitioner in case bearing FIR No.0057 dated 29.03.2023 registered under Sections 363, 366-A IPC at Police Station Baragudha, District Sirsa (Annexure P-1).
2. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and submits that the prosecutrix has voluntarily accompanied the petitioner and they were having a consensual relationship. The prosecutrix has refused her medical examination and her statement under Section 164 Cr.P.C. was recorded on 15.06.2023 by the concerned jurisdictional Magistrate, in which, she has clearly stated that the petitioner has not committed any wrong with the prosecutrix and she has gone with him voluntarily out of her own sweet will and she has further stated that she wants to live with the petitioner. Learned counsel for the petitioner further contends that the petitioner is behind the bars since 16.06.2023 and the investigating agency has already concluded the investigation.
3. Per contra, learned State counsel submits that there are serious

allegations against the petitioner and the prosecutrix is minor.

4. In rebuttal, learned counsel for the petitioner submits that the date of birth of the prosecutrix is yet to be established by producing the relevant record in accordance with law, however, learned State counsel could not controvert the fact that the prosecutrix in her statement recorded under Section 164 Cr.P.C. has exonerated the petitioner.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind the bars since 16.06.2023 and the investigating agency has already concluded the investigation. Trial of the case is likely to take long time as only one witness has been examined yet. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner.

6. The Hon'ble Apex Court in the case law titled as ***Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra (2005) 5 SCC 294*** has observed as under :

"xxx38. We are furthermore of the opinion that the restrictions on the power of the court to grant bail should not be pushed too far. If the court, having regard to the materials brought on record, is satisfied that in all probability he may not be ultimately convicted, an order granting bail may be passed. The satisfaction of the court as regards his likelihood of not committing an offence while on bail must be construed to mean an offence under the Act and not any offence whatsoever be it a minor or major offence. If such an expansive meaning is given, even likelihood of commission of an offence under Section 279 of the Indian Penal Code may debar the court from releasing the accused on bail. A statute, it is

trite, should not be interpreted in such a manner as would lead to absurdity. What would further be necessary on the part of the court is to see the culpability of the accused and his involvement in the commission of an organised crime either directly or indirectly. The court at the time of considering the application for grant of bail shall consider the question from the angle as to whether he was possessed of the requisite mensrea. Every little omission or commission, negligence or dereliction may not lead to a possibility of his having culpability in the matter which is not the sine qua non for attracting the provisions of MCOCA. A person in a given situation may not do that which he ought to have done. The court may in a situation of this nature keep in mind the broad principles of law that some acts of omission and commission on the part of a public servant may attract disciplinary proceedings but may not attract a penal provision. xxxx"

7. In view of the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial and the petitioner-Lakhbir *alias* Lakhi is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

April 10, 2024
manisha

(HARPREET SINGH BRAR)

JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No