

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

203

CRM-M-17327-2024

Date of Decision: 16.04.2024

Vikas @ Vicky

.... Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Satish Saini, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 983 dated 30.11.2021 registered under Sections 363 and 366-A IPC [Sections 376(3), 354-A, 328 & 506 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012, were added later on] at Police Station Barwala, District Hisar.

The aforesaid FIR was registered on the basis of a complaint moved by the mother of the victim, which is reproduced as under:-

“To, The S.H.O Police Post Barwala, Sir, It is requested that I am Geeta Devi Wife of Manoj Kumar Caste Saini resident of ward no. 5, Barwala (Hisar). I have three children. My elder daughter is Mehak, whose age is 13 years 6 months.

My daughter Mehak is wearing blue pants and orange coloured T-shirt, her complexion is fair and she has gone for tuition from home at 3 p.m with her school bag. But she did not come home till 5 p.m. She was searched at every place and also at relatives place. But she has not come home yet. The height of the girl is 5 feet. A boy named Vikas alias Vicky son of Ishwar Saini, resident of village Dhani Kendu, Hansi. He used to send wrong message to our daughter on her mobile phone. We suspect that Vikas alias Vicky has lured my daughter and taken her somewhere. The girl date of birth is 17.04.2008. Therefore, I request you to please search for my daughter. We are also constantly searching for the girl. Mobile number of Vikas alias Vicky is 7404799140 and Father name of Vikas is Ishwar Saini village Dhani Kendu (Hansi), Mobile Number is 9812695872.....”

Learned counsel for the petitioner, *inter alia*, submits that at the time of commission of alleged offence, the petitioner was 23 years of age; whereas the victim was 13 years and 06 months old. It is submitted that the petitioner and the victim were in a consensual relationship. However, as the father of the victim is in Indian Railway Police Force and that the parents of both the petitioner and the victim were against their relationship, the present FIR has been registered. As per the DNA report, DNA profile obtained from the clothes of the victim, did not match with that of the petitioner. Further, it is submitted that statement of the victim has already been recorded by the learned trial Court and the petitioner has been in custody since 04.12.2021. The trial is likely to a take long time. No useful purpose will be served by further detention of

the petitioner in custody. Thus, it is prayed that petitioner be released on regular bail.

Learned counsel for the State has filed custody certificate dated 15.04.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 02 years, 04 months and 11 days. As per custody certificate, there is no other case against the petitioner.

Learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and submits that the victim, in her statements recorded under Section 164 Cr.P.C. as also in her testimony (Annexure P-2) as PW-4, has fully supported the case of the prosecution. The complainant/mother of the victim has not been examined so far. It is submitted that the FSL report has come positive. Learned counsel for the State further informs that out of total 16 prosecution witnesses, 03 have already been examined and the next date of hearing before the learned trial Court is today itself, i.e., 16.04.2024.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case; including the custody period undergone by the petitioner i.e. 02 years, 04 months and 11 days and perusal of the custody certificate reveals that there is no other case against the petitioner; and the fact that the victim has already been examined by the learned trial Court; and also the fact that conclusion of trial will take considerable time, and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is

allowed.

The petitioner-Vikas @ Vicky S/o Ishwar Singh is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

16.04.2024

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(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No