



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

220

CRM-M-17998-2024 (O&M)

Date of decision: 09.07.2024

KULDEEP @ JASSI

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. Abhishek Singla, Advocate and
Ms. Tanya Sehgal, Advocate
for the petitioner.

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.590 dated 07.10.2022 (Annexure P-1) under Sections 363, 366-A of the IPC (Sections 354, 354-A(i), 34 IPC and Sections 8 and 17 of the POCSO Act, 2012 added later on and challan presented under Sections 17, 4, 8 of the POCSO Act, 2012 and Sections 328, 34, 354, 354-A, 363, 366-A and 376 IPC registered at Police Station Adampur, District Hisar.

2. Notice of motion.

3. On the asking of the Court, Mr. Kirpal Singh Thakur, AAG, Haryana accepts notice on behalf of the respondent-State.

4. Custody certificate dated 09.07.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the petitioner has undergone 01 year 08 months and 25 days of actual custody.



5. Status report by way of an affidavit of Wazir Singh, HPS, Deputy Superintendent of Police, Law and Order, Hisar along with copy of statement of victim under Section 164 Cr.P.C. (Annexure R-1), supplementary statement of prosecutrix (Annexure R-2), MLR of the victim (Annexure R-3), school certificate of the victim (Annexure R-4), disclosure statement of petitioner (Annexure R-5), RFSL report dated 31.12.2023 (Annexure R-6), letter number 622-5A dated 27.05.2024 (Annexure R-7), custody certificate of the petitioner (Annexure R-8) have been filed on behalf of the respondent-State, which are taken on record.

6. As per the prosecution case, the father of the victim lodged a complaint that on 07.10.2022 at about 4.00 am, when the complainant woke up he found that his minor daughter was not on her bed. The complainant came to know that the petitioner had enticed away the victim-minor girl, whose date of birth is 10.06.2005 as per school certificate of the victim (Annexure R-4). Upon receiving the said information, the police lodged the present FIR.

7. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case and he is in custody since 15.10.2022. He further contends that statement of the victim has been recorded during the trial. There are major contradictions in the statement recorded under Section 164 Cr.P.C. (Annexure P-3) and in the statement recorded during the trial (Annexure P-4). There are no allegations against the petitioner that he has committed rape upon the prosecutrix. Even the medical evidence is not against the petitioner. He submits that 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.



8. On the other hand, learned State counsel on instructions from ASI Darshna has informed that one of the co-accused of the petitioner is still absconding. He has further informed that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court on 06.01.2023. There are total 22 witnesses, out of which 06 witnesses including the material witnesses have been examined. Statement of the prosecutrix (PW-1) has already been recorded by the trial Court on 13.07.2023. As per the custody certificate, there is no history of other cases against the petitioner.

9. I have considered the aforesaid contentions and perused the paper-book.

10. As per the statement of the prosecutrix recorded under Section 164 Cr.P.C. (Annexure P-3), the prosecutrix has made following submissions:--

“Answer: on 06.10.2022 in night I was at my home. Then I talked to Kuldeep S/o Sarjeet who came in night around 2 and took me with him. Then we stayed at bus stand of Mandi Adampur and in the morning, we went to court for getting married. We could not get married because my age was less. Then we both stayed in Hisar for 5 days. Sometimes we stayed in park and sometimes in market. During this period Kuldeep tried to force him on me. Sometimes he hugged me and held my hand. On 12th we both had to go to Chandigarh for getting married but police caught us.
Question: Do you want to say anything else?
Answer. No.”

11. As per the deposition of the prosecutrix in the Court (Annexure P-4), the prosecutrix had only stated that the accused had kept her 4-5 days in Hisar. On 08.10.2022 accused offered her tea in market and after having the same, she felt dizziness. When she regained consciousness, she found herself on the roof of a room. She did not know what happened during that period however her shirt was torn and she was not having her chunni.

12. As per the Medico Legal Report (Annexure R-3), no sign of any injury had been seen on the prosecutrix. As per the Regional Forensic Science



Laboratory, Hisar (Annexure R-6), human semen was detected on exhibit-9 (clothes stated to be of accused) however, semen could not be detected on rest of the exhibits.

13. Investigation is complete and the final report under Section 173 of the Code of Criminal Procedure has been presented before the trial Court. The petitioner is in custody for 01 year 08 months and 25 days. Material witnesses have already been recorded. There are total 22 prosecution witnesses, out of which only 06 witnesses have been recorded. The material witnesses have been examined, as such there is no apprehension of tampering the material evidence.

14. 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.

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

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

(HARPREET KAUR JEEWAN)
JUDGE

09.07.2024
P.Bhatt

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No