



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

221

CRM-M-18155-2024 (O&M)
Date of decision: 09.07.2024

AJAY KUMAR

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Saleem Ahmed, 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.620 dated 24.09.2022 (Annexure P-1) under Sections 363, 366-A IPC (Section 6 of the POCSO Act, 2012 added later on) registered at Police Station Surajkund, District Faridabad.
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 08.07.2024 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 29 days of actual custody.
5. Reply by way of an affidavit of Vishnu Parshad, HPS, Assistant Commissioner of Police, NIT, Faridabad along with copy of birth certificate of victim (Annexure R-1), call details of victim and petitioner (Annexure R-2) and

custody certificate (Annexure R-3) have been filed on behalf of the respondent-State, which are taken on record.

6. As per the prosecution case, on 22.09.2022, the prosecutrix was sleeping with her mother and at about 2.30 am, when the mother of the prosecutrix woke up, she found the prosecutrix missing. The complainant suspected that the petitioner had allured and enticed away her daughter on the pretext of marriage. On 09.10.2022, the victim girl was recovered from the house of the sister of the petitioner from District Jhunjunu, Rajasthan. The statement of the prosecutrix was recorded under Section 164 Cr.P.C. and petitioner got arrested on 10.10.2022.

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 10.10.2022. 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. There are total 22 prosecution witnesses out of which only 3 witnesses have been examined so far and 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 has opposed the bail on the ground of gravity of allegations against the petitioner. Learned State counsel has informed that investigation is complete; final report under Section 173 Cr.P.C. has been presented before the trial Court on 03.11.2022 and charges have also been framed against the petitioner. There are total 22 prosecution witnesses, out of which 03 witnesses including the victim and her mother have been examined. 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. The prosecutrix reported her age as 17 years in her statement recorded under Section 164 Cr.P.C. (Annexure P-2), which is in conformity with the date of birth certificate relied upon by the prosecution (Annexure R-1). In the statement recorded under Section 164 Cr.P.C. (Annexure P-2), the prosecutrix had alleged that she wanted to marry the petitioner but her family members had refused. As such she left the house without telling anyone and went along with the petitioner. The petitioner had promised to solemnize marriage with her and also made physical relations with her. The said statement reads as under:

‘It is stated that I had met Ajay first time on face book. We become friend and thereafter become affair between us. Ajay wants to marry me, therefore he talked to my mother by coming to my house. On 20.09.2022 Ajay came to meet and family members refused. Hence, on 21.09.2022 at 11.45 AM, I left the house without telling to anyone and went with Ajay. Firstly we went to Railway Station but no train find there and we decided to go from bus and we went to Jaipur by bus and we stayed there in a Hotel and we stayed there for two days. During that time we did not make physical relations there. Thereafter we went to the house of his sister and we stayed there for 3-4 days and we had made physical relations there. He had promised me to marry with me, therefore physical relations made between us. Yesterday on 09.10.2022, police took me back. We did not perform marriage. I will live with parents.’

11. As per the status report, the victim-girl refused for her medical examination, therefore the swabs and clothes of the victim were not sent for chemical examination. Learned State counsel has verified that during the investigation, the call details of the petitioner and the call details of victim along with tower location were obtained, which is annexed as Annexure R-2.

12. Investigation is complete; final report under Section 173 of the Code of Criminal Procedure has been presented before the trial Court on 03.11.2022 and charges have also been framed against the petitioner. The petitioner is in custody for 01 year 08 months and 29 days. There are total 22 prosecution witnesses and material witnesses i.e. the victim and her mother have been examined. Father of the victim has given up. As per the custody certificate, there is no history of other



cases against the petitioner. The trial will take some time to conclude as only 3 witnesses have been yet examined.

13. 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.

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

15. 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