



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

291

CRM-M No.19503 of 2024
Date of Decision: 14.05.2024

Sunny ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Mohit Rathee, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

Mr. Robin Lohan, Advocate,
for the complainant.

MANISHA BATRA, J.(Oral)

1. The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Police Station	Sections
391	I.M.T. Rohtak, District Rohtak	363, 366 and 34 of IPC

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on 26.12.2023 on the basis of complaint submitted by the complainant "K" (name withheld) alleging therein that her younger daughter "K" (name withheld) aged about 15-16 years had gone along with her elder daughter to her school in the morning. Her elder daughter informed her that the

2024:PHHC:067755



present petitioner along with juveniles in conflict with law "H" (name withheld) and "J" (name withheld) had induced her away by taking her on a motorcycle from outside the school with the intention to solemnize marriage with her. A case under Sections 363 and 366 read with Section 34 of IPC was registered. Investigation proceedings were initiated. The victim was recovered on 30.12.2023. Her statement under Section 164 of Cr.P.C. was recorded wherein she disclosed that on the fateful day, she along with her two brothers i.e. the present petitioner and juvenile "J" and one friend i.e. juvenile "H" had gone on their bike as while going towards the school, they had asked her to accompany them. All four of them had stayed at some village on 26.12.2023. Next day, they kept on roaming around and in the night, they had stayed in some fields. Thereafter, they had gone to Rewari as they had to further proceed to Khatu-shyam (religious place). Since they were left with no money with them, therefore, her friend had called someone on the basis of which his phone number was traced. Then the family members of her brothers had brought her brothers and herself and their friend back. She also disclosed that nothing wrong had happened with her in the meanwhile.

3. As per the further allegations, the petitioner was arrested on 30.12.2023. Offence under Section 366 of IPC was deleted and offence under Section 366-A of IPC was added during the course of investigation. After completion of necessary investigation and usual formalities, challan was presented against the petitioner who is major. Since the co-accused were found to be below the age of 18 years and juveniles therefore, after conducting inquiry, report was submitted before the Juvenile Justice Board.

2024:PHHC:067755



Presently, the petitioner is facing trial for commission of the aforementioned offences. He had moved application for bail before the learned trial Court which had been dismissed vide order dated 09.04.2024.

4. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. Infact, the victim is in love with the juvenile "H" and his name was taken only because of the fact that he is a friend of juvenile "H" and because of enmity of the complainant with the petitioner. He has further argued that even while recording her statement under Section 164 of Cr.P.C., the victim had addressed him as one of her brothers and it was the juvenile "H" who was referred to as her friend and it is he, with whom she is having affair. He had no hand in enticing her away on the pretext of performing marriage or for the purpose of her procurement by way of kidnapping for committing illicit intercourse by some other persons. The ingredients for commission of the offences for which he has been charge-sheeted have not been made out as against him at all. The trial is likely to take time. No useful purpose would be served by keeping him in custody. Both the juveniles in conflict with law who are infact the main offenders have already been extended benefit of bail by the Juvenile Justice Board. On the ground of parity, he too deserves to be granted benefit of bail. Therefore, it is argued that the petition deserves to be allowed.

5. Reply by way of affidavit on behalf of respondent-State has been filed and the same is taken on record. It has been submitted therein and it has been argued by learned State counsel that there are serious allegations against the petitioner. The victim is yet to be examined. There are chances of

2024:PHHC:067755



the petitioner's intimidating the victim and other material witnesses or absconding if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

6. The complainant has also been represented by a counsel who has submitted that the complainant has no objection if the petition is allowed.

7. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

8. The petitioner along with the juveniles in conflict with law "H" and "J" is alleged to have enticed away the minor victim on the pretext of performing marriage of the minor victim with "H" with whom she is allegedly having affair. The juvenile "H" is shown to have admitted the factum of relationship with the victim and about taking the victim along with her with the present petitioner and the juvenile "J" on 26.12.2023. Both the juveniles have since been extended benefit of bail. There are no allegations that the taking away of the minor victim by the petitioner was with some intent to induce her to perform marriage with the juvenile "H" or to induce her to have illicit intercourse with someone else and she was subjected to any such act. The petitioner is in custody for a period of four and half months. The investigation has since been completed. The trial is likely to take time. Further detention of the petitioner would not serve any useful purpose. It is well settled proposition of law that bail is the rule and jail is an exception. Keeping in view the nature of the subject offences, the period of incarceration of the petitioner, the fact that the juveniles in conflict with law whose case is at parity with the petitioner have been extended benefit of bail

2024:PHHC:067755



and, therefore, on the ground of parity as well as the part attributed to the petitioner, I am of the considered opinion that he deserves to be released on bail. Therefore, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of learned trial Court.

9. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

14.05.2024
manju

(MANISHA BATRA)
JUDGE

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