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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-23807-2024 (O&M)
Date of decision : 03.09.2024

Suman

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sandeep Yadav, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition, which has been filed under Section 439 of the Code of Criminal Procedure, for grant of regular bail to the petitioner in case arising out of FIR No. 143 dated 18.04.2023, registered under Sections 366, 370 and 323 read with Section 34 of the IPC and Section 5 of the Immoral Trafficking (Prevention) Act, 1956 at Police Station Meham, District Rohtak. The first petition, bearing number **CRM-M-36903-2023**, was dismissed by this Court on 23.11.2023.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the statement made by complainant 'D' (*name withheld*) alleging therein that on 05.04.2023, she was forcibly married to one Dinesh by Sandip Kaur, Deep, Gagan, Mandip and petitioner Suman. Prior to that, they had got her married

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with one Kuldeep and she was thrown into the profession of prostituion. She alleged that she was sent by the aforementioned persons to different youths during night hours and on her resistance, she was infused with injections and was badly thrashed. On the basis of her complaint, the aforesaid FIR was registered. Investigation proceedings were initiated. The petitioner and co-accused were arrested on 18.04.2023. They were interrogated and suffered disclosure statements that they along with other co-accused used to send young girls to different boys to earn money and also that they used to exploit innocent girls on the pretext of performing their marriage. The statement of the victim was recorded under Section 164 Cr.P.C. before the Magistrate, wherein she also disclosed that the sister of Sandeep Kaur brought her from Chandigarh for working in a beauty parlour and also on the pretext of solemnizing their marriage.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case. She is in judicial custody since 18.04.2023. Her custodial interrogation is no more required. Learned counsel for the petitioner has placed on record, copy of order dated 18.07.2024, passed by the trial Court, showing that a direction has been issued to summon the complainant through the SHO concerned as she is not coming forward to record her statement before the trial Court. Hence, the trial is likely to take a long time. The petitioner has already undergone incarceration for a period of more than 01 year and 04 months. No useful purpose would be served by keeping her in custody anymore. The bail is rule and the jail is an exception. Hence, it is prayed that the petition deserves to be allowed.

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4. Reply has been filed by learned State counsel. It is submitted therein and learned State counsel has argued that there are serious and specific allegations against the petitioner, who is active members of a gang, which used to allure innocent girls and bring them to other cities on the pretext of getting them married and then they would throw the girls into the mud of prostitution. However, it is not disputed that the complainant is not turning up before the trial Court for recording of her statement and the trial is delayed due to that reason.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material place on record.

6. The first bail petition of the petitioner was dismissed by this Court by passing a detailed order on 23.11.2023. The petitioner has filed this petition seeking grant of regular bail on the ground of delay in trial. A perusal of the record shows that the petitioner is in custody since 18.04.2023 i.e. for a period of more than 01 year and 04 months. A perusal of the aforesaid zimni order passed by the trial Court reveals that the complainant is not turning up before the Court for recording of her statement, which has caused unnecessary delay in conclusion of trial. As per allegations in the FIR, the petitioner has been involved in this case in the aid of Section 370 of IPC and the maximum punishment for the said offence is 03 years, whereas the petitioner has already undergone substantive period of incarceration as undertrial. Therefore, this Court is of the considered opinion that no useful purpose would be served by keeping her in custody anymore.

7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to her furnishing

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personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

03.09.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No