



Sr. No.228

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

CRM-M-24796-2024
Date of decision: 13th August 2024

SAGARPetitioner

versus

STATE OF HARYANARespondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Sunny Tyagi, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana,
assisted by ASI Sushila.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner in case bearing FIR No.206 dated 17.06.2023, under Sections 365, 376, 506 IPC, 1860 and Sections 4, 17 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Quilla, District Panipat (Annexure P-1).
2. The present FIR has been registered at the instance of the mother of the prosecutrix with the allegations that on 16.06.2023, in the middle of the night, she found that her daughter was missing from the house and the main gate of the house was open.
3. Learned counsel for the petitioner contends that the petitioner is in custody for more than 01 year and 01 month. The statements of the prosecutrix and her parents (Annexures P-3 to P-5) have already been recorded and none of them have supported the prosecution case. There are total 24 prosecution witnesses out of which, only 12 witnesses have been examined.



4. Learned State counsel has opposed the present petition on the ground of gravity of allegations levelled against the petitioner. Learned State counsel has filed reply dated 24.07.2024, by way of affidavit of Sh. Suresh Kumar, HPS, Deputy Superintendent of Police, Traffic, Panipat, on behalf of respondent-State of Haryana along with Annexures R-1 to R-5 as well as custody certificate of the petitioner dated 12.08.2024, reflecting his period of custody as 01 year 01 month and 21 days, which are taken on record.

5. Learned State counsel confirms that out of total 24 prosecution witnesses out of which, only 12 witnesses have been examined. As per the custody certificate, there is another FIR registered against the petitioner bearing FIR No.688/2022 dated 30.08.2022, under Sections 323, 325, 341, 354 IPC, registered at Police Station Narela, North Delhi, however, the petitioner is on bail in the said FIR.

6. I have considered the aforesaid contentions and perused the paper book.

7. The date of birth of the prosecutrix is 05.07.2008, as per the Date of Birth Certificate issued by the Department of Health, Government of Haryana (Annexure R-2). The statement of the prosecutrix was recorded under Section 164 Cr.P.C. on 18.06.2023 (Annexure R-3), wherein, she stated that on 16.06.2023, at about 11:30 PM, she woke up to answer the call of nature and heard some noise outside her house. When she went to see outside, two boys were standing along with their motorcycles. They gagged the mouth of the prosecutrix with their hands and forcibly took her to the fields. One of the boys went away and the other boy sexually outraged her modesty and threatened to kill her.

8. The medical examination of the victim was conducted and copy of the



swabs were sent for examination. As per the report received from the Forensic Science Laboratory, Madhuban, Karnal, human semen was detected in the swabs and clothes of the prosecutrix.

9. Investigation is complete. Final report/challan under Section 173 Cr.P.C. has been presented and charges have been framed. The DNA report is yet awaited. Out of total 24 prosecution witnesses, only 12 witnesses have been examined. Conclusion of trial is likely to take time. The identification of the petitioner as an accused would be a matter of trial.

10. Keeping in view the facts and circumstances of the present case and also in view of the custody period of the petitioner, the present petition is allowed.

11. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court concerned.

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

(HARPREET KAUR JEEWAN)
JUDGE

13th August 2024
simran

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