

2024:PHHC:091791



CRM-M-25087-2024 (O&M)
DATE OF DECISION : 22.07.2024

MANOJ KUMAR PHUTELA

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Aditya Sanghi, Advocate for the petitioner.
Mr. Kirpal Singh Thakur, AAG, Haryana.

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HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in case FIR No. 326 dated 01.12.2023 under Sections 363, 366-A, 376(2)(n), 506, 120-B, 420, 467, 468, 471, 344, 34 IPC and Section 6/17 of Protection of Children from Sexual Offences Act and Sections 9/10/11 of the Protection of Child Marriage Act, 2006 registered at Police Station Nathusarai Chopta, District Sirsa, Haryana.
2. Custody certificate dated 19.07.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the petitioner has undergone 03 months and 23 days of custody.
3. Learned counsel for the petitioner contends that the FIR was lodged with the allegation that on 01.12.2023, the victim went missing from

her home and she was recovered on 19.12.2023 and her statement under Section 161 Cr.P.C. (Annexure R-1) was recorded wherein she has not levelled any allegations against any person and she refused for medical examination. Thereafter, in a subsequent statement recorded under Section 164 Cr.P.C., she levelled allegations against the co-accused of the petitioner namely Sunil and Anil. Learned counsel for the petitioner further contends that merely on the basis of the disclosure statement by the co-accused Anil Kumar, the petitioner has been implicated.

4. Referring to the status report filed by way of affidavit of Sanjeev Balhara, HPS, Deputy Superintendent of Police, Ellenabad, District Sirsa, the State counsel has confirmed that there are no allegations of sexual abuse against the petitioner. He is only alleged to have fabricated the documents with regard to the age of the prosecutrix.

5. However, this fact has been confirmed by the learned State counsel that in the initial statement of the prosecutrix recorded under Section 161 Cr.P.C. (Annexure R-1) as well as in the subsequent statement recorded under Section 164 Cr.P.C. (Annexure R-3), the prosecutrix has not levelled any allegations against the petitioner.

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

7. Investigation is complete and final report/challan under Section 173 Cr.P.C. has been presented before the trial Court. Learned counsel for the petitioner has informed that even in the other two cases i.e. FIR No. 422 dated 07.09.2023 under Sections 406, 420 IPC, registered at Police Station

Agroha, Hisar and FIR No. 364 dated 17.04.2023 under Section 420 IPC, registered at Police Station Civil Line, Sirsa which are alleged to have been registered against the petitioner, he is on bail. The conclusion of trial is going to take time.

8. In view of the above, the present petition is allowed. 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/Duty Magistrate concerned.

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

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

22.07.2024

Janki

**(HARPREET KAUR JEEWAN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No