

CRM-M-26482-2024 (O&M)

246 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:109260



CRM-M-26482-2024 (O&M)
DATE OF DECISION : 23.08.2024

SAHIL BHARDWAJ ... PETITIONER

V/S

STATE OF HARYANA ... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Sunil Pawar, Advocate and
Mr. Dhruv Singh, Advocates for the petitioner.

Mr. Pawan Kumar Jhanda, DAG 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 seeking regular bail in case FIR No. 487 dated 08.12.2022 under Sections 363, 366 IPC and later on added Section 6 of Protection of Children from Sexual Offences Act, registered at Police Station Badshahpur, District Gurugram.
2. Learned counsel for the petitioner contends that the petitioner is facing the trial with the allegations that on 07.12.2022, the petitioner enticed away the minor victim who had gone to attend the school but did not return back. As per the status report on 11.12.2022 on receiving a secret information, the Police with the help of the complainant recovered the

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victim from Shri Ram Hotel, Vrindavan and thereafter, the victim was subjected to medico-legal examination and her statement under Section 164 Cr.P.C. was recorded.

3. Custody certificate and reply by way of affidavit of Abhilaksh Joshi, HPS, Assistant Commissioner of Police, Sohna, Gurugram on behalf of the State have been taken on record. As per the custody certificate, the petitioner has undergone 01 year, 08 months and 10 days of custody. Copy of the DNA report of Forensic Science Laboratory has been presented in the Court.

4. I have heard the learned counsel for the parties.

5. As per the statement of the prosecutrix recorded under Section 164 Cr.P.C. (Annexure P-2), the prosecutrix has alleged that the petitioner and the victim had gone to Vrindavan and the petitioner by showing someone else's ID, took a room in Shanti Sadan Ashram and thereafter, they visited temples. The petitioner tried to force himself on the victim but she did not let him do so. He forced her to marry him. However, *prima facie* there are no allegations of penetrative sexual assault against the petitioner in her statement recorded under Section 164 Cr.P.C. Even as per the medico-legal examination report, the victim was menstruating at the time of examination and no abnormality was detected. The victim gave the history of an attempt of sexual assault. The investigation of the case is complete; challan has already been presented and charges have been framed. As per the status report, there are 20 prosecution witnesses. Statement of the victim has already been recorded during the trial. The petitioner is 21 years of age. As per the DNA examination report dated 27.03.2024, there is no conclusive

report about the matching of the DNA. The conclusion of trial is going to

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take some time. Consequently, 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.

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

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

23.08.2024

Janki

**(HARPREET KAUR JEEWAN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No