



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

221

CRM-M-30519-2023 (O&M)
Date of decision: 23.07.2024

SAURAV

...Petitioner

Versus

STATE OF HARYANA

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Pranshul Dhull, Advocate
for the petitioner.

Mr. Amrik Singh Narwal, DAG, Haryana.

HARPREET KAUR JEEWAN, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.78 dated 27.02.2022 (Annexure P-1) under Sections 328, 363, 366, 506, 34 IPC and Sections 4(1), 6, 14, 17 of the POCSO Act, 2012 registered at Police Station Dharuhera, District Rewari.
2. Custody certificate dated 20.07.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the petitioner has undergone 02 years 01 month and 21 days of actual custody.
3. As per the prosecution case, on 27.02.2022, the matter was reported to the police by the complainant regarding missing of his two daughters-victim-U aged about 15 years and victim-K aged about 14 years. On 26.02.2022, both the



victims had gone out of the house for picking up the stitched goods but they did not return back. There are allegations that the victim had been lured away by the petitioner on the pretext of marriage. On the basis of these allegations, the present FIR was registered.

4. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case and he is in custody since 28.05.2022. He further contends that the petitioner is only alleged to have reached the spot on receiving the call of victim-K and he had brought the victim-K to the house of his sister from where the police had recovered the victim-K. He submits that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. The petitioner is ready to face trial. He further submits that the trial is going to take time to conclude, as such, prayer for releasing the petitioner on bail has been made.

5. On the other hand, learned State counsel has opposed the bail petition on the ground of gravity of allegations against the petitioner. Learned State counsel on instructions from SI Sobha Rani has informed that though it has been mentioned in the status report dated 23.05.2024 filed by way of an affidavit of Narender Kumar, HPS, Deputy Superintendent of Police, Bawal, District Rewari that DNA report is still awaiting, however the DNA samples were not sent for DNA comparison. As per the report of RFSL dated 15.06.2022 (Annexure R-1), human semen could not be detected on the samples of the victim. He has further informed that the victim-K herself has given an affidavit dated 04.07.2024 to the Investigating officer, which shows that she does not want to undergo DNA test and blood sampling. Investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. As per the custody certificate,



there is no history of other cases against the petitioner.

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

7. During the investigation, victim-U was recovered on 03.03.2022 and her statement under Section 164 Cr.P.C. was recorded on 04.03.2022, wherein the victim has not alleged anything incriminating against the petitioner. Subsequently, victim-K was recovered on 28.05.2022 and her statement under Section 164 Cr.P.C. was recorded on the same day before the Area Magistrate. The said statement reads as under:

‘Stated that my parents wants to solemnize my marriage forcibly with someone other person but I love to Saurabh. My parents denied to get me marry with Saurabh. I tried to conveyance to my parents but my parents used to beaten me by saying that I have to get marry with their desire. One day my father brought a Knife then on 27 February went to Aligarh with my friend Shilpi with my free will and stayed there 1-2 months at the room of Rohit. Rohit took money from his friend and raped me with his friend by giving me drink and then he replied that Shilpi took money and Rohit did wrong act (Rape) with me. Thereafter, due to fear I called Saurabh because Rohit prepared obscene video of mine, then Saurabh took me at Ujjain where we solemnized marriage in the Temple of Mahakal. Now I’m still wants to reside with Saurabh as my parents wants to get solemnized my marriage with someone. They don't bother if any boy molested with me and I'm not safe with them.’

8. The statement of the victim-K has already been recorded during the trial (Annexure P-1) where she has corroborated the version given in the statement recorded under Section 164 Cr.P.C. regarding role attributed to the petitioner.

9. Investigation is complete and the final report under Section 173 of the Code of Criminal Procedure has been presented before the trial Court. As per the custody certificate, there is no history of other cases against the petitioner. The petitioner is in custody for 02 years 01 month and 21 days. Only 5 witnesses have been examined till date out of total 31 prosecution witnesses, as such trial will take some time to conclude.



10. In view of the above, the petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.
11. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.
12. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

23.07.2024
P.Bhatt

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