

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

212

CRM-M-31365-2023 (O&M)

Date of order: 29.02.2024

Pankaj

.....Petitioner(s)

Vs.

State of Haryana

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Dr. Pankaj Nanhera, Advocate
Mr. Rahul Gautam, Advocate
Mr. Nitin Verma, Advocate
for the petitioner.

Mr. Surinder Kumar Dagar, AAG Haryana.

Nidhi Gupta, J.

Present is the first petition filed by the petitioner under Section 439 of Code of Criminal Procedure (hereinafter referred to as “Cr.P.C.”) seeking grant of regular bail in case FIR No.1080 dated 22.11.2022 registered under Sections 376(2)(n), 363, 366 and 506 of Indian Penal Code, 1860 (hereinafter referred to as “IPC”) and Section 6 of POCSO Act at Police Station Sadar, District Karnal.

2. FIR in the present case was registered on the basis of statement of mother of the victim and the same reads as under:-

“To, The SHO, Police Station- Sadar, Karnal. Sir, it is humbly requested that I Deepak w/o Rajesh and resident of village Sekhunpura Sohana, Distt. Karnal. I have three daughters and one son. That my daughter named Palak, aged 18 years, got married in the year 2022. On 18.11.2022 at about 10.30 P.M. she has went away anywhere without disclosing to anybody.

We enquired about her from our relatives and nearby, but not found. We are searching her till today, her identification is- Colour: Fair, Height: 5ft. wearing: Salwar-Suit of green color. We requested you to enquire about my daughter Palak. Thanks. Sd/- (Deepak)".

3. It is inter alia submitted by learned counsel for the petitioner that it has been admitted by the complainant in the FIR itself that the victim was 18 years of age at the time of incident. As per the FIR, the victim had gone missing on 18.11.2022. As she was untraceable, mother of the girl registered present FIR on 22.11.2022. Thereafter, the victim was recovered on 25.11.2022. Learned counsel submits that the victim had gone with the petitioner of her own sweet will and they had gone together to Rajasthan where they stayed for a week and returned thereafter. It is submitted that now the complainant and the victim have both been examined and the petitioner has been in custody since 27.11.2022 and therefore, it is prayed that the petitioner be released on regular bail.

4. Learned State Counsel opposes the prayer made on behalf of the petitioner for grant of regular bail and submits that at the time of incident, the victim was only 17 years and 2 months old as, as per her birth certificate her date of birth was 18.09.2005. It is submitted that the victim in her statement under Section 164 Cr.P.C. as also in her testimony as PW1 has supported the prosecution case. It is however stated that no incriminating medical record is available. Learned State Counsel also submits that custody certificate of the petitioner is not available and out of total 16 prosecution witnesses, 7 have been examined and 9 are yet to be examined.

5. I have heard learned counsel for the parties.
6. Without commenting on the merits of the matter, however, keeping in view the totality of the facts and circumstances of the present case, including the fact that conclusion of trial will take time as out of 16 witnesses 7 have been examined so far; and material witnesses stand examined; no useful purpose would be served by keeping the petitioner behind bars; present petition is **allowed**. Petitioner namely Pankaj s/o Jaio Naraian is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.
7. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.
8. Pending application(s) if any also stand(s) disposed of.

29.02.2024
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No