



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
206

CRM-M-37728-2024(O&M)

Date of Decision: 18.11.2024

RohitPetitioner

Versus

State of Haryana Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. TPS Bhatti, Advocate for the petitioner.

Ms. Deepshikha Chauhan, A.A.G., Haryana.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No. 12 dated 10.01.2024 under Sections 363, 366A IPC and Section 12 of the POCSO Act, 2012 registered at Police Station Bhiwani City, District Bhiwani and offence under Section 8 of POCSO Act, 2012 and 354A IPC added in challan.

Learned counsel for the petitioner *inter alia* submits that the present FIR came to be registered on the basis of the statement made by the father of the victim, relevant part of which reads as under:-

*“Statement of XXXX S/O Mr. Ghanshyam Dass resident of Chandu Bharlia’s street, Halu Bazar, Bhiwani.....
xxxxxxxxxxxxx My daughter (*****) today on 10.01.2024 this morning at around 10:00AM-10:30AM went out from home for some work but she did not come back even after. That now I have come to know that Rohit son of Manoj, resident of Jawahar chowk, Bhiwani, threatened and enticed away my daughter. Legal action should be taken against him and*



my daughter should be searched xxxxxx ”

Learned counsel for the petitioner submits that the prosecutrix in the present case is 17 years and 11 months of age as her date of birth is 25.02.2006; whereas the petitioner is 18 years of age. It is submitted that in actual fact, the petitioner and the prosecutrix were known to each other and were good friends with each other. As such, the prosecutrix had willingly accompanied the petitioner on 10.01.2024. This is evident from the statement recorded by the prosecutrix under Section 164 Cr.P.C. (Annexure P-1), wherein it is stated as under:-

“I on 10.01.2024 went of the house without telling anyone. After reaching railway station I called Rohit and we went Ahamdabad and Surat. Than we stayed in Rohtak for 4 days. During that time no physical relation with Rohit established. He did not do anything wrong with me, I went of my own free will. Rohit had no fault in it. He not called me. I called him. I want to go to my aunt.”

It is further submitted that the father of the prosecutrix is a muscleman and the petitioner has been in custody since 17.01.2024 as undertrial. No useful purpose would be served by further detention of the petitioner in custody. Thus, it is prayed that the present petition may be allowed, and the petitioner be released on regular bail.

Learned counsel for the State opposes prayer made on behalf of the petitioner; and on instructions, submits that the prosecutrix as PW7 and the complainant in their respective testimonies have supported the prosecution case. It is, however, admitted that the victim in her statement under Section 164 Cr.P.C. (Annexure P-1), has not made any allegation



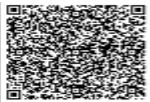
against the petitioner. It is further informed, on instructions, that the prosecutrix had refused to undergo medical examination and as such, no samples were taken from the prosecutrix. It is submitted that the victim was recovered on 17.01.2024 when 112 call was received from the Police Station Jhajjar at the Police Station Bhiwani City District Bhiwani.

Learned counsel for the State, further informs that there are 24 witnesses in the present case, out of which 18 witnesses have been examined so far.

Learned counsel for the State files custody certificate dated 14.11.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 9 months and 26 days.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case including the fact that: a) the custody period of 9 months and 26 days undergone by the petitioner as an undertrial; b) no other case is pending against the petitioner as evident from the custody certificate placed on record; c) material witness i.e. the prosecutrix stands examined; c) out of total 24 witnesses, 18 witnesses have been examined so far and therefore, the conclusion of trial will take considerable time and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.

The petitioner-Rohit S/o Manoj, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.



However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

Pending application, if any, stands disposed of.

18.11.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

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