



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-45013-2024

Date of decision: 28.10.2024

RAHUL KHAN

...Petitioner

V/s

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vinod Ghai, Senior Advocate with
Mr. Arnav Ghai and Mr. Dhruv Trehan, Advocates,
for the petitioner.

Mr. Yuvraj Shandilya, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail in this second petition filed under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 in case FIR No.108 dated 11.04.2023 under Section 506 of the IPC (Sections 342 and 201 of the IPC added later on) and Section 6 of the Prevention of Children from Sexual Offences Act, 2012, registered at Police Station Dhauj, District Faridabad.

2. Learned senior counsel for the petitioner has at the outset drawn the attention of this Court to the FIR in question which has been annexed as Annexure P-1 and submitted that vague allegations had been levelled therein that the petitioner had been committing "wrong acts with the victim" and also threatening him with dire consequences. Learned senior counsel has argued that the false implication of the petitioner is further evident from the fact that during the medico legal examination of



the victim, no mark of any fresh external injury was seen on any part of his body. In support, he has drawn the attention of this Court to the MLR annexed as Annexure P-2. It has also been submitted by the learned senior counsel that when a specific opinion of the doctor was obtained by the investigating agency, he, too categorically opined that there was no sign or symptom of the alleged sexual assault upon the victim. In support, learned senior counsel has drawn the attention of this Court to Annexure P-4 which is the opinion of the doctor concerned. It has been, thus, argued by the learned senior counsel that in the absence of any corroborative medical evidence, coupled with the fact that the two material witnesses i.e. the victim as well as her father (complainant) already stand examined, further incarceration of the petitioner would serve no useful purpose as he has now been in custody since 12.04.2023 and there is no likelihood of the trial concluding in the near future as 13 prosecution witnesses still remain to be examined. It has also been contended by the learned senior counsel that the petitioner has no previous criminal antecedents.

3. *Per contra*, learned State counsel, while opposing the prayer and submissions made by learned counsel opposite, on instructions, has not disputed the findings recorded in the MLR (Annexure P-2) and the opinion of the doctor (Annexure P-4). which stand annexed as Annexure P-2. However, it has been submitted that both the witnesses i.e. the victim, aged 09 years, as well as the complainant while stepping into the witness box had supported the case of the prosecution in its entirety and, thus, there is no question of the petitioner being implicated in a false case. The custody



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period of the petitioner as well as the stage of the trial has not been disputed by the learned State counsel.

On a pointed query, learned State counsel has further not disputed that the petitioner has no previous criminal antecedents.

4. I have heard learned counsel for the parties and perused the relevant material placed on record.

5. The petitioner has been in custody since 12.04.2023 and both the material witnesses i.e the victim as well as the complainant i.e. his father stand examined, hence there can be no apprehension of the petitioner influencing/intimidating the witnesses. Trial would take considerable time to conclude as 13 prosecution witnesses still remain to be examined.

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

6. Accordingly, the instant petition is allowed and the petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

7. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

(MANJARI NEHRU KAUL)
JUDGE

October 28, 2024
poonam

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No