

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49846-2023 (O&M)

Reserved on: 01.02.2024

Date of Decision:- 13.02.2024

ANIL

.....PETITIONER

Vs.

STATE OF HARYANA

..... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Rajesh Goyal, Advocate, for the petitioners.
Mr. Kirpal Singh Thakur, A.A.G., Haryana.

HARPREET KAUR JEEWAN, J.

1. This second petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No. 571 dated 05.09.2021 (Annexure P-1) under Sections 363 and 366-A of the IPC (Sections 376 (2) (n) and 506 of the IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 were added later on), registered at Police Station Samalkha, District Panipat.

2. The first petition filed by the petitioner bearing No. CRM-M-51787-2022, was dismissed as withdrawn on 29.05.2023 and no order on merits was passed.

3. As per the prosecution case, on 05.09.2021, the father of the prosecutrix reported the matter to the police that he is a labourer by profession. He has three children. On 05.09.2021, at about 02:00 a.m., in the middle of the night, his daughter left the house without disclosing anyone. His daughter who is about 16 years of age has been abducted by the petitioner who is resident of the same village. On the basis of the said complaint, the case was registered. On 19.10.2021, the victim was

produced by her mother. Her Statement under Section 164 Cr.P.C. was recorded wherein she stated that the petitioner forced her into his own house. He called the prosecutrix in his house by pressuring her. He is neighbourer of the victim. Thereafter, he had taken her to Rewan Kule Dehrudun on a bike on 04.09.2021. They stayed in a rental room and the petitioner did sex with her for about 1½ month. Thereafter, on 19.10.2022 the petitioner dropped her at Panipat and then she came home. The petitioner threatened to kill her. The medical examination of the prosecutrix was also conducted.

4. Learned counsel for the petitioner *inter alia* contends that the petitioner is in custody since 29.03.2021. The ‘*challan*’ has already been presented. No recovery was effected from the petitioner. The statement of the prosecutrix has already been recorded by the trial Court. As per the FSL report neither the semen nor the blood could be deducted from the samples. It was further contended that the victim’s mother is habitual of lodging complaint and thereafter, she withdraws such filed complaints which is evident from Annexures P-6 and P-7.

5. The State counsel opposed the bail application on the gravity of offence.

6. The investigation is complete. The final report report under Section 173 Cr.P.C. has already been filed. The statement of the prosecutrix dated 26.08.2022 (Annexure P-4) has already been recorded by the trial Court on 26.08.2022. As per the medical evidence, i.e. the testimony of PW-6 Dr. Mona Nagpal, Medical Officer, General Hospital, Panipat, (Annexure P-6), she did not notice any bodily injury marks on the person of the victim. As per the FSL report dated 27.01.2022 (Annexure P-5),

neither the semen nor the blood could be deducted on the samples taken from the victim. No doubt the victim is minor but she was not recovered from the possession of the petitioner as noticed by the learned Additional Sessions Judge, Panipat, in the order dated 21.10.2022 (Annexure P-3). On 19.10.2021, the victim was herself produced by her mother.

7. The trial is going to take time. Without expressing any opinion on the merits and keeping in view the fact that the material witnesses have already been examined, no purpose would be served by keeping the petitioner in custody, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal bond in the sum of Rs.2,00,000/- with two sureties in the like amount to the satisfaction of the learned trial Court/CJM, concerned.

8. The petitioner shall also furnish an undertaking before the learned trial Court/CJM concerned that he would not remain in the same village where the victim is residing during the pendency of the trial.

9. Liberty is reserved in favour of the State/complainant to move for cancellation/recall of the order in case the petitioner violates the aforesaid condition.

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

11. Pending miscellaneous applications, if any, also stand disposed of.

February 13, 2024
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No