

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

CRM-M-50692-2023

DATE OF DECISION : 30.01.2024

NAFEEL

... PETITIONER

V/S

STATE OF CHANDIGARH (UT)

... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Sandeep Lather, Advocate for the petitioner.

Mr. Manish Bansal, P.P. U.T. Chandigarh with
Mr. Saksham Parmar, Advocate.

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HARPREET KAUR JEEWAN, J. (ORAL)

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. 110 dated 22.08.2022 (Annexure P-1) registered under Sections 363 IPC (Sections 366, 376(2)(n) IPC and Sections 4 and 6 of Protection of Children from Sexual Offences Act, 2012 added later on) at Police Station East Sector 26, U.T. Chandigarh.

2. Reply by way of affidavit of DSP Palak Goel, SDPO (East) on behalf of the respondent-State has been taken on record.

3. It is in allegation against the petitioner that he had enticed away the minor daughter of the complainant and committed rape upon her. Initially, the FIR was lodged at the instance of the mother of the prosecutrix who informed the police that on 17.08.2022 in the evening her daughter, aged about 16 years, had left the house and since then she is missing. Initial

FIR was registered under Section 363 IPC. The petitioner was arrested on

06.06.2023 and the statement of the prosecutrix was recorded under Section 164 Cr.P.C. The final report under Section 173 Cr.P.C. has been presented in the Trial Court.

4. Learned counsel for the petitioner *inter alia* contends that the marriage of the petitioner was solemnized with the prosecutrix on 07.09.2022 as per Muslim rites. In the month of June, 2023 some dispute arose between them and on 06.06.2023, the victim-girl had left her matrimonial house and went to her parents house. In search of the victim, the petitioner also went there but the parents of the girl informed the police and the petitioner was arrested and he has been falsely implicated in the present case. The petitioner is in custody since 06.06.2023.

5. Learned State counsel contends that after the completion of the investigation, challan was presented on 03.08.2023 under Sections 363, 366, 376(2)(n) of IPC and Sections 4 and 6 of Protection of Children from Sexual Offences Act. The charges have been framed and 2 witnesses out of total 16 have been examined by the Trial Court. The statement of the complainant and the victim (prosecutrix) is yet to be recorded by the Trial Court. Learned State counsel further contends that during the investigation, the date of birth certificate of the victim was obtained and verified from the School. As per the said certificate, the prosecutrix is minor as her date of birth is 10.06.2006. The statement of the prosecutrix was also recorded under Section 164 Cr.P.C.

6. Keeping in view the fact that the prosecutrix is minor, her statement is yet to be recorded by the Trial Court, at this stage, there is apprehension of tampering with the prosecution evidence. As such, the petitioner is not entitled to the bail. The legality of the contentions

raised on behalf of the petitioner that the petitioner had performed marriage with the prosecutrix is a matter of Trial since the petitioner had supported the prosecution story in the statement recorded under Section 164 Cr.P.C. Consequently, the present application stands dismissed.

30.01.2024

Janki

**(HARPREET KAUR JEEWAN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No