

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

221

CRM-M-52109-2023
Date of decision: April, 09 2024

SURAJ

Versus

...Petitioner(s)

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sumit Singh Bairagi, Adovcate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

CRM-8505-2024

Allowed as prayed for, subject to all just exceptions.

Copies of the statement of the prosecutrix as well as her father who appeared before the trial Court as PW-1 and PW-2 receptively are taken on record as Annexure P-7 and P-8.

Main case

The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
146	04.06.2020	Israna, District Panipat	Section 365 of Indian Penal Code, 1860 and later on added

			(Sections 328, 363, 366-A and 506 of IPC under Section 6 of POCSO Act) added later on
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2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 04.06.2020, on the basis of a written complaint filed by the complainant “D” (name withheld) alleging that the victim “S” (name withheld) who was his minor daughter had left home on 31.05.2020, without informing anyone and suspected that she had been enticed away by someone. Initially a case under Section 365 of IPC was registered. Investigation proceedings were initiated. On 05.06.2020, the complainant recorded a statement that his daughter had been induced by the present petitioner and he had kidnapped her with an intention to marry her. The victim was recovered from the custody of the petitioner on 09.07.2020. The petitioner was arrested on 10.06.2023. During investigation, offences under Sections 328, 363, 366-A and 506 of IPC and read with Section 6 of POCSO Act were added. After completion of necessary investigation and usual formalities challan was presented in the Court and presently, the petitioner is facing trial for commission of aforementioned offences. He had moved an application for grant of bail before the learned trial Court which had been dismissed vide order dated 18.08.2023.

3. The present petition has been filed by the petitioner on the

grounds and it has been argued by his counsel that he has been falsely implicated in this case. He is in custody since 10.06.2023. He had performed marriage with the victim on 04.06.2020. He had also been extended benefit of anticipatory bail earlier in this case and it was later on that an application for cancellation of the benefit of bail so extended to him as filed by the State, had been allowed and he was taken into custody again. He never misused the concession of the bail previously granted to him. The prosecutrix who was the star witness of the case as well as her father i.e. the complainant had not supported version of the prosecution in their sworn depositions as recorded before the learned trial Court. His further detention was not going to serve any useful purpose. Therefore, it is argued that he deserves to be given the concession of bail.

4. Per contra, learned State counsel has argued that there are serious allegations against the petitioner and, therefore, it is urged that he does not deserve to be given the concession of bail.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. A perusal of Annexure P-7 and Anneure P-8 which are copies of the statements of the victim and the complainant respectively recorded before the learned trial Court as PW-1 and PW-2, reveals that neither of them have implicated the present petitioner in commission of either of the offences for which he has been booked and charge-sheeted. Both of them are shown to have stated that nothing wrong had happened with the victim and

that she herself had left her house on 30.05.2020, when a quarrel had taken place between her mother and herself. Both of them stated that the petitioner had not committed any act of sexual upon the victim at any point of time. In this manner, these witnesses are shown to have resiled from their statements allegedly recorded before the police implicating the petitioner in commission of the subject offences and no incriminating evidence has been extracted against the petitioner from their statements.

7. In view of the nature of the evidence which has come on record in the form of statements of both these witnesses, the period spent by the petitioner in custody and the attendant facts and circumstances of the case, but without meaning to make any comment on the merits. I am of the considered opinion that the present petition deserves to be allowed. Hence, the petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

8. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

9 Since the main petition has been allowed thus, all the pending application if any is rendered infructuous.

April, 09 2024
monika

1. Whether speaking/ reasoned

2. Whether reportable

:

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Yes / No

Yes / No

[MANISHA BATRA]
JUDGE