

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

CRM-M-55871-2023

DATE OF DECISION : 24.01.2024

AMIT ALIAS RINKU

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Amit Parashar, Advocate for the petitioner.

Mr. Amrik Singh Narwal, DAG Haryana.

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HARPREET KAUR JEEWAN, J. (ORAL)

Prayer in the present petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case bearing FIR No. 295 dated 19.05.2022 under Section 6 of Protection of Children from Sexual Offences Act, registered at Police Station Palla, District Faridabad.

Custody certificate and status report by way of affidavit of Monica, Assistant Commissioner of Police, Women Safety, Faridabad on behalf of the State has been taken on record.

Learned counsel for the petitioner contends that as per the FIR, there are no allegations against the petitioner. Rather the prosecutrix has stated that she is in love with the petitioner and wanted to marry him. The FIR was got registered by manipulation by maternal grand-mother of the prosecutrix. The prosecutrix was major on the day of alleged occurrence as per the date of birth recorded in her Aadhar card and Pan card (Annexures P-3 and P-4). The prosecutrix has also not stated anything against the petitioner in her statement recorded under Section 164 Cr.P.C. (Annexure P-

6) and she has alleged that her relationship was not good with her grand mother in the statement recorded before the Child Welfare Committee (CWC) (Annexure P-5). The prosecution is relying upon the date of birth as per the certificate issued by a private School which is based on the entry in the register in the said School which is contrary to the date of birth recorded in the Aadhar card and Pan card, which are authentic documents. It is further contended that the petitioner is in custody since 20.05.2022 and conclusion of trial will take time.

Learned State counsel has opposed the bail application on the ground of gravity of allegations. It was contended that the FIR was registered on the basis of the statement made by the prosecutrix. It was further contended that prosecutrix was 5 weeks pregnant and as per the orders of CWC, Faridabad, her abortion was done on 07.06.2022 in B.K. Hospital, Faridabad. As per the report of DNA profiling, the DNA of the accused matched with the DNA of the fetus. The prosecutrix is a minor. As per the birth record of the prosecutrix obtained from the School her date of birth was found as 28.03.2006. Only 1 witness has been examined and in case, the petitioner is released on bail there is apprehension of tempering with the prosecution evidence.

I have considered the aforesaid contentions. The case was registered at the instance of the prosecutrix. She has herself alleged in the FIR that her age is 16 years. As per the FIR, her mother had left her father and she came to Faridabad along with her to stay with her grand-mother. Even, there used to be a fight between her mother and her grand-mother. As such, her mother left the house and left her (prosecutrix) with her grand-mother in March, 2022. It is further alleged by her in the FIR that her

grand-mother used to fight with her. She was asked to do all the household work. As such, feeling frustrated, she went to the house of her friend. During that period, she met the petitioner and she has alleged that she was having love affair with him. Both got married. She further alleged that both had physical relations many times and she has stated that she does not want to live with her grand-mother.

The prosecutrix is 'child victim' and even victim of unfavourable family circumstances. It is further on record that she became pregnant. As per the status report, her pregnancy was confirmed on 30.05.2022 and thereafter, abortion was done as per the orders of CWC, Faridabad and she was discharged from the hospital on 09.06.2022. As per the report of FSL, Madhuban dated 30.09.2022, the DNA profile of the accused matched with the DNA profile of the fetus. The report reads as under:-

“DNA profiling (STR analysis) performed on the exhibits '1' (blood sample of accused), '4' (blood sample of victim) & '6' (Tissue materials), are sufficient to conclude the DNA profile generated from the source of exhibit '6' (Tissue material) is the biological offspring of the DNA profile generated from the source of exhibits '1' (blood sample of accused) and '4' (blood sample of victim).”

There is no marriage proof between the petitioner and the prosecutrix.

The contradictions with regard to date of birth of the prosecutrix in the Aadhar card and in the School records would be adjudicated during Trial. As per the Aadhar card, the date of birth has been recorded as 01.01.2004 and as per School records it is recorded as 28.03.2006. Material witnesses are yet to be examined. The offence

committed by the petitioner is serious in nature. As such, there is apprehension of absconding the petitioner during the trial, since he is resident of U.P. and he was temporarily residing at Faridabad.

Keeping in view the entire facts and circumstances and serious allegations against the petitioner, no ground for bail is made out. Consequently, the present petition stands dismissed.

24.01.2024
Janki

(HARPREET KAUR JEEWAN)
JUDGE

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