



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
CRM-M-55822-2023
Date of decision: 27th May, 2024

Amandeep
...Petitioner(s)
Versus
State of Haryana and others
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Raman Chawla, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.
Mr. B.S. Bairagi, Advocate for respondents No. 2 and 3.

MANISHA BATRA, J (ORAL):-

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

FIR No.	Date	Police Station	Sections
640	03.12.2022	City Narnaund, District Hisar	346 of IPC, 1860 (Section 6 of POCSO Act and Sections 363, 366A and 376(2)(n) of IPC added later on)

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint filed by the complainant ‘S’ (name withheld) alleging that the prosecutrix ‘M’ (name withheld) who is his minor sister had gone to the village School on 02.12.2022 but did not return. They had made search for her but could not find her. After registration of the FIR, investigation proceedings were initiated. On 27.02.2023, she was recovered from bus-stand Fatehabad. Initially she refused to undergo medical examination but



the same was conducted later on. Her statement was recorded under Section 164 of Cr.P.C., wherein she stated that she had voluntarily gone with the petitioner and wanted to live with him. Her subsequent statement was recorded before the police, wherein she disclosed that she had voluntarily indulged in the act of sexual intercourse with the petitioner. Offences under Sections 363, 366-A and 376(2)(n) of IPC and Section 6 of POCSO Act were added. The petitioner was arrested on 08.05.2023. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for the commission of the aforementioned offences.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that the petitioner was not named in the FIR. Even in her statement, recorded under Section 164 of Cr.P.C., the prosecutrix had clearly stated that she had voluntarily gone with the petitioner. Infact, it was a case of love affair between the petitioner and prosecutrix. From the medical record of the prosecutrix, no evidence against the petitioner has been collected. The prosecutrix is not even coming forward before the trial Court to record her statement. He is in custody since long. The trial will likely to take time. No useful purpose would be served by keeping him in custody anymore. Hence, it is urged that the petition deserves to be allowed.

4. Status report has been filed by respondent-State. It is submitted therein and learned State counsel has argued that there are specific and serious allegations against the petitioner who not only enticed away the



prosecutrix who was a minor girl on the date of incident, but also repeatedly ravished her. The prosecutrix is yet to be examined. The trial is going on at a proper pace. Therefore, it is argued that no ground for allowing the petition has been made out.

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. The petitioner is alleged to have enticed away the prosecutrix and is further alleged to have committed acts of aggravated penetrative sexual assault with her. The prosecutrix is yet to be examined. The mere fact that no DNA had been collected and probably there would be no medical evidence to prove the allegations that the prosecutrix had been ravished by the petitioner is not a ground to disbelieve the prosecution version. The consent of the prosecutrix being minor is immaterial. Keeping in view the nature of such offences, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

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

8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

27th May, 2024

Parveen Sharma

- 1. Whether speaking/ reasoned
- 2. Whether reportable

: Yes / No
: Yes / No