

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

CRM-M-57520-2023

DATE OF DECISION : 26.02.2024

ANKIT

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Jagmohan Ghumman, Advocate for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

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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. 126 dated 26.04.2022 registered under Sections 363, 366 IPC (Section 6 of Protection of Children from Sexual Offences Act added later on) at Police Station Bhondsi, District Gurugram.

2. As per the prosecution case on 25.04.2022 at about 7 p.m. the prosecutrix aged about 17 years went to fetch milk but she did not return back home. As such, the matter was reported to police on 26.04.2022 by her mother with the allegations that she came to know that her daughter had been enticed away by the present petitioner. On 26.04.2022 at about 7 a.m., father of the petitioner allegedly informed the complainant that the petitioner and the prosecutrix are admitted in PGIMS Rohtak and both have received injuries in the accident. After registration of the FIR, the victim was got medico-legally examined and offence under Section 366-A IPC and Section

6 of Protection of Children from Sexual Offences Act were added. The statement of the victim under Section 164 Cr.P.C. was also recorded. The petitioner was arrested on 07.05.2022. After his medico-legal examination the blood sample of the petitioner was sent for DNA profiling. Final report under Section 173 Cr.P.C. has been presented in the Court.

3. Learned counsel for the petitioner contends that the age of the victim is more than 18 years and there is a dispute regarding the age of the victim as presented in the report under Section 173 Cr.P.C. The prosecutrix as well as her mother, who is the complainant, have not supported the prosecution case during the course of trial, as per the statement Annexures P-3 and P-4. Even there are no allegations of sexual assault in the FIR as well as in the statement under Section 164 Cr.P.C., Annexure P-5. The petitioner is in custody since more than one year and 09 months and conclusion of trial is likely to take time.

4. Learned State counsel referring the affidavit of Priyanshu Diwan, Assistant Commissioner of Police, Badshahpur, Gurugram has confirmed that the final report/challan has been presented in the Court. Five out of 25 total witnesses including the material witnesses have already been examined. The victim and her mother have not supported the prosecution case. Learned State counsel has submitted the photocopy of the DNA examination report issued by FSL Madhuban, Karnal, as per which the matching could not be done due to the degraded DNA content or PCR inhibitors.

5. Keeping in view the aforesaid circumstances and considering the fact that final report under Section 173 Cr.P.C. is presented; statement of material witnesses have already been examined; they have not supported the prosecution case; conclusion of trial is going to take time, the remaining

prosecution witnesses are yet to be recorded which is also going to take time, therefore, without expressing any opinion on the merits of the case, the application is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds/surety to the satisfaction of the trial Court/Chief Judicial Magistrate, concerned.

26.02.2024
Janki

(HARPREET KAUR JEEWAN)
JUDGE

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