

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

202

CRM-M No.65172 of 2023

Date of Decision : 2.4.2024

*Robin Nain**..... Petitioner**versus**State of Haryana**..... Respondent***CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. Vikas Bishnoi, Advocate, for the petitioner

Ms. Tanushree Gupta, DAG, Haryana

TRIBHUVAN DAHIYA J. (ORAL):

This is a petition under Section 439 Cr.P.C. seeking regular bail in case FIR No.538 dated 7.11.2022 under Sections 363 and 366-A IPC (Sections 376 (2)(n), 506, 417, 420, 467, 468 and 471 IPC and Section 6 of POCSO Act, 2012 added later on) registered at Police Station City Tohana, District Fatehabad.

2. The FIR was lodged on a complaint made by the victim's mother alleging that her daughter, aged about seventeen and a half year, went missing on 6.11.2022. On enquiry at personal level, it was found that she had gone with the petitioner, who was not found present at home. She also alleged that he had enticed away her daughter.

3. Learned counsel for the petitioner contends that the victim was recovered on 12.11.2022, from her aunt's (*bua's*) place at Dadri, and her statement under Section 164 Cr.P.C., Annexure P-4, was recorded. She categorically stated that nobody had enticed her away nor had committed any bad act with her. She had gone to Haridwar on her own on 6.11.2022,

stayed at station and spent time roaming around temples. Her aunt's son Surender forcibly made her write a suicide note mentioning that the petitioner had committed rape upon her. The victim's statement before the Child Welfare Committee was also recorded on 12.11.2022, Annexure P-6, wherein she reiterated the version recorded in the statement under Section 164 Cr.P.C. before the Magistrate. The complainant in her statement dated 22.11.2022, Annexure P-8, recorded under Section 161 Cr.P.C. during investigation also did not attribute anything to the petitioner, and also stated that only on account of some misunderstanding he was named in the case. Her daughter had gone alone, and that the case lodged against the petitioner may be cancelled. Besides, the victim refused her medical examination. It is further contended that only in her deposition before the trial Court, the victim changed her version and implicated the petitioner by levelling false allegation. He is in custody since 16.2.2023 and the trial will take some time to conclude.

4. Learned State counsel does not dispute the facts mentioned by learned counsel for the petitioner. She, however, contends that trial of the case is going on, and the victim has named the petitioner in her testimony. As of now, nine prosecution witnesses including the victim, out of thirty seven have been examined and the trial is fixed for 5.4.2024.

5. The arguments advanced by learned counsel for the parties have been considered. The petitioner is involved in the case on the basis of changed version of the victim in her testimony. Trial of the case is going on, and the victim stands examined. It will take some time to conclude as twenty-eight witnesses are to be examined as yet. There is no apprehension of the petitioner threatening the witnesses or influencing the

trial. No useful purpose will be served by keeping the petitioner in custody any longer.

6. Accordingly, the petition is allowed. The petitioner is ordered to be released on bail to the satisfaction of the trial Court/Duty Magistrate concerned.

(TRIBHUVAN DAHIYA)
JUDGE

2.4.2024
Ashwani

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