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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1478-2025(O&M)
Date of decision: 14.02.2025

Sanju

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Nikhil Vats, Advocate, for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Amit Khari, Advocate, for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 483 of BNSS for the grant of regular bail to the petitioner in FIR No.281 dated 24.10.2023, under Sections 363 and 366-A IPC (Sections 376-D, 376(2) (n), 342, 376 (3), 120-B IPC and Sections 6 and 17 of POCSO Act added later on at the time of filing of challan), registered at Police Station Lakhan Majra, Rohtak.

2. Learned counsel appearing on behalf of the petitioner submitted that it is a case where the petitioner is in custody for 1 year and 4 months and all the material witnesses have been examined. He submitted that the petitioner has been falsely implicated in the present case and at the time of deposition, the prosecutrix and the other material witnesses did not support the prosecution version and therefore, the petitioner may be considered for the grant of regular bail.



3. On the other hand, Mr. Vishal Kashyap, DAG, Haryana has opposed the grant of regular bail by submitting that it is a case where as per the allegations, the petitioner had enticed away the prosecutrix, who at that time of incident was of the age of 13 years and after she was found, her medical was conducted and FSL report was found to be positive, wherein semen was detected. He further submitted that the mere fact that even the minor girl had deposed before the Court or even her relatives had deposed before the Court that she had gone with the petitioner with her own consent would be insignificant and irrelevant because there can be no consent of a minor girl especially of the age of 13 years and especially when the FSL report has been found to be positive. He further submitted that it is a case where the allegations against the petitioner are absolutely serious and heinous in nature when the allegations are pertaining to enticing away a 13 years old girl. He further submitted that there is an apprehension that in case the petitioner is released on bail, then he may abscond from justice or may influence remaining witnesses and therefore, he may not be granted the benefit of regular bail. He also submitted that the present petition has been filed by the petitioner for the grant of regular bail, wherein the offence involved is under Section 376(3) IPC, without impleading the complainant/victim as party to the petition.

4. However, at this stage, Mr. Amit Khari, Advocate has appeared on behalf of the complainant and has filed his power of attorney in the Court today, which is taken on record. He has submitted that he can only make submissions on the basis of whatever the prosecutrix and her parents have so deposed before the Court and he does not want to add anything else.

5. I have heard the learned counsels for the parties.



6. It is a case where the allegations against the petitioner were with regard to enticing away a 13 years old girl and as per the learned State counsel, FSL report was also found to be positive and even otherwise also, the FSL report has been attached as Annexure P-5 alongwith the present petition and it is not in dispute that the semen was also detected on the clothes. This Court is of the considered view that the mere fact the prosecutrix has so deposed before the Court, if at all, that she had gone with the petitioner with her own consent is insignificant and irrelevant for the purpose of considering the grant of regular bail because there can be no consent of a minor girl especially when she is of a tender age of 13 years. The apprehension which has been expressed by the learned State counsel that in case the petitioner is released on bail, then he may abscond from justice or may influence remaining witnesses cannot be ignored and carries weight. Therefore, considering the aforesaid totality and circumstances of the present case, this Court is of the considered view that the petitioner does not deserve the concession of regular bail.

7. Consequently, the present petition is dismissed.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

14.02.2025
rakesh

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