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

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Date of Decision:-18.03.2025

Devesh Kumar @ Durgesh

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Yogender Nain, Advocate
for petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

AMARJOT BHATTI, J.

1. The petitioner –Devesh Kumar @ Durgesh has filed petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail in FIR No.79 dated 07.02.2024, under Section 342 of IPC & Section 4 of POCSO Act, registered at Police Station Saran, District Faridabad (Annexure P-1).

2. As per the facts of case, complainant (mother of the victim) namely 'A' gave her statement that her daughter (victim) namely 'N' was aged about 13 years. On 06.02.2024, she was sleeping in the room along with family. Her husband returned home at about 11:00 PM and when he switched on the light, it was noticed that the victim was not in the room. They waited for some time that she might have gone to the bathroom. When she did not return, they started searching for her. Everybody staying

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in the rooms came out but Durgesh who lived in the adjoining room did not come out. Her younger son peeped inside the room through window and saw the victim sitting in the room of Durgesh. Durgesh opened the door and the victim came out. She disclosed that she had come out for going to the bathroom when she was taken inside by Durgesh and thereafter, he closed the room. It was alleged that Durgesh did not do anything wrong with her. Her son informed the police. With these allegations, present FIR has been registered.

3. Learned counsel for petitioner argued that allegations levelled against the petitioner are false. Petitioner was arrested in this case on 06.03.2024 and since then he is behind the bars. The prosecution witnesses have not supported the case. He has annexed statement of the victim PW-1 (Annexure P-2), statement of mother of the victim PW-2 (Annexure P-3), statement of father of the victim PW-3 (Annexure P-4) and all these witnesses were declared hostile. Statement of landlord PW-4 was also recorded which is Annexure P-5. Trial in this case may take long time. Petitioner is ready to abide by the terms of bail order. Therefore, it is prayed that his regular bail petition may be allowed.

4. Learned counsel representing State opposed the bail petition. Detailed status report has been filed along with copy of MLR of the victim (Annexure R-1), statement of the victim recorded under Section 164 Cr.P.C. (Annexure R-2), copy of her birth certificate (Annexure R-3), report of RFSL Bhondsi Gurugram (Annexure R-5) as well as statements of the witnesses recorded before learned trial Court (Annexure R-6 to R-9). It is pointed out that as per the DNA report (Annexure P-10), the DNA



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profile obtained from the stains on the source i.e. Swab and the source i.e. underwear matched with the DNA profile of the source i.e. blood samples stated to be of accused. Therefore, the stand taken by learned counsel for petitioner is without any basis. The allegations are serious in nature, therefore, petitioner is not entitled to be released on regular bail.

5. I have considered the arguments and have gone through the record carefully. The occurrence took place on 06.02.2024. After presentation of challan on 01.06.2024, charge-sheet was framed on 14.08.2024. Till date 04 prosecution witnesses have been examined and admittedly, the victim and her parents did not support the prosecution case and they were declared hostile. It cannot be ignored that as per the school record date of birth of the victim is 21.02.2011 (Annexure R-3). There is medical record along with DNA test report (Annexure R-10) which helps the case of prosecution. The allegations are serious. The testimony of witnesses and the medical record is to be appreciated by learned trial Court at appropriate stage.

Therefore, considering the aforesaid factual position, I do not deem it appropriate to release the present petitioner on regular bail and his bail petition is accordingly declined.

6. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

18.03.2025

*Sunil Devi***(AMARJOT BHATTI)
JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No