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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9430-2024 (O&M)

Date of decision: 21.03.2025

BILLU

...Petitioner(s)

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Raman Chawla, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.72 dated 07.11.2022, under Sections 376(2)(n) and 506 of the IPC, registered at Women Police Station Hansi, District Hisar, Haryana.

2. Learned counsel for the petitioner submitted that the petitioner is in custody for 2 years, 4 months and 11 days and he has been falsely implicated in the present case. He further submitted that it is a case where the petitioner and the complainant-prosecutrix, who was major of the age of 19 years were in a consensual relationship with each other with a result that the complainant-prosecutrix became pregnant and delivered a child. He further submitted that even as per the allegations in the FIR, the alleged occurrence had taken place in



the month of March, 2022 and after about 8 months, the present FIR was got lodged on 07.11.2022 at the time when the baby was delivered. He further submitted that the complainant-prosecutrix kept silent for the aforesaid time period and did not complain to anybody and when the relationship turned sour and when she wanted to marry some other person, the present FIR was got lodged. He further submitted that in fact the complainant-prosecutrix has rather married another boy and is staying with him. He further submitted that so far as the child, who was born in November, 2022 is concerned, he is not being taken care of either by the petitioner, who is in jail or by the complainant-prosecutrix because she has got married somewhere else and therefore, in the interest of the child, the petitioner may be considered for the grant of regular bail. He also submitted that even otherwise also, 4 prosecution witnesses have been examined out of total cited 11 prosecution witnesses and rather the complainant-prosecutrix has already been examined, although she has supported the prosecution version but considering the stage of the trial and the custody of the petitioner, he may be considered for the grant of regular bail.

3. On the other hand, Mr. Vishal Kashyap, DAG, Haryana submitted that it is correct that the petitioner is in custody for 2 years, 4 months and 11 days and the present FIR was registered after a gap of about 8 months at the time when the child was born. He further submitted that so far as the marriage of the complainant-prosecutrix with some other boy is concerned, the same is not in dispute. He further submitted that the DNA of the child had matched with the petitioner and the child belongs to the petitioner but as per his instructions, the child has now been given in adoption to some other couple for taking care



of the child and therefore, the argument which has been raised by the learned counsel for the petitioner that the child has to be taken care of but the petitioner is in custody and the complainant-prosecutrix had already married somebody else is not available with the petitioner. He also submitted that so far as the stage of the trial is concerned, material witnesses including the complainant-prosecutrix have already been examined and 4 prosecution witnesses have been examined out of total cited 11 prosecution witnesses.

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

5. It is a case where the petitioner is in custody for 2 years, 4 months and 11 days and as per the learned counsels for the parties, material witnesses including the complainant-prosecutrix have already been examined and 4 prosecution witnesses have been examined out of total cited 11 prosecution witnesses. As per the allegations, the occurrence took place in March, 2022 and the present FIR is stated to have been lodged on 07.11.2022 at the time when the aforesaid child was born. It has also been stated by the learned counsels for the parties that the complainant-prosecutrix, who was major at the time of occurrence has now got married to somebody else. Admittedly, a child has also been born. The complainant-prosecutrix is stated to be not having the custody of the aforesaid child nor the petitioner is having the custody of the child because he is in jail.

6. After hearing the learned counsels for the parties, this Court is of the view that considering the aforesaid stage of the trial and the custody of the petitioner and the fact that child was born, who is not in the custody of the mother i.e. the complainant-prosecutrix nor the father i.e. the present petitioner,



who is in jail, this Court deems it fit and proper to grant the concession of regular bail to the petitioner.

7. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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

21.03.2025
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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