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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-62992-2024 (O&M)
Date of Decision: 19.05.2025

Yogesh Kumar

....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Krishan Singh, Advocate, for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Hemant Hans, Advocate, for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.78 dated 05.07.2021, under Sections 4, 6, and 10 of POCSO Act, registered at Women Police Station Panchkula, District Panchkula, Haryana.

2. Learned counsel appearing on behalf of the petitioner submitted that it is a case where the petitioner is in custody from 16.07.2021 which is almost 3 years and 10 months and 15 out of 18 prosecution witnesses have been examined. He submitted that an FIR was lodged by the complainant that his daughter of the age of 13 years was enticed away by one of the co-accused namely, Mangu Ram and the petitioner was not even named in the FIR. He submitted that the aforesaid co-accused Mangu Ram was of the age of about 20 years and the petitioner is a co-villager of the aforesaid Mangu



Ram and is of the age of 34 years and he was not even named in the FIR. He submitted that thereafter vide Annexure P-3, the prosecutrix recorded her statement under Section 164 Cr.P.C before the learned Magistrate and a perusal of the same would also show that it was the aforesaid co-accused Mangu Ram who was named by her and she very clearly so stated that the aforesaid Mangu Ram had committed wrong with her and still there was no mention about the present petitioner at all and it was later on that on the basis of the disclosure statement of the aforesaid Mangu Ram that the name of the petitioner was nominated and he has now faced incarceration for 3 years and 10 months. He submitted that considering the aforesaid facts and circumstances, the petitioner may be considered for the grant of regular bail.

3. On the other hand, Mr. Vishal Kashyap, DAG, Haryana has submitted that so far as the custody of the petitioner is concerned, the same is correct. He submitted that the petitioner was not named in the FIR and the first statement of the prosecutrix under Section 164 Cr.P.C. but in the second statement under Section 164 Cr.P.C, the prosecutrix had named the present petitioner. He also submitted that co-accused Mangu Ram at the time of investigation has also disclosed the name of the present petitioner as well. He submitted that 15 out of 18 prosecution witnesses have already been examined.

4. Mr. Hemant Hans, Advocate has appeared on behalf of the prosecutrix and has opposed the grant of regular bail to the petitioner.

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

6. It is a case where the petitioner is in custody for 3 years and 10 months and a perusal of the FIR would show that the name of the petitioner



was not mentioned in the FIR and the allegations were against the co-accused Mangu Ram and as per Annexure P-3, even in the statement under Section 164 Cr.P.C before the learned Magistrate she did not name the petitioner but as per the learned State counsel in the second statement before the learned Magistrate, she has named the present petitioner. Be that as it may, the petitioner was nominated later on and was neither named in the FIR nor in the first statement of the prosecutrix under Section 164 Cr.P.C. Apart from the above, the petitioner has already faced incarceration for 3 years and 10 months and as per learned counsel for the parties, all the material witnesses have been examined.

7. In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant regular bail to the petitioner.
8. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.
9. 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.

19.05.2025

(JASGURPREET SINGH PURI)

rakesh

JUDGE

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