

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.211

CRM-M-26731-2023

Date of Decision: 31.05.2023

Deepak Kumar

.... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

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

Ms. Trishanjali Sharma, DAG, Haryana.

TRIBHUVAN DAHIYA, J. (ORAL)

This is a petition under Section 439 Cr.P.C. seeking grant of regular bail in case FIR No.31 dated 17.01.2022, registered under Sections 363 and 366-A of IPC (later challaned under Sections 363, 366-A, 506, 341, 34 of IPC, Sections 6 and 17 of POCSO Act, 2012) at Police Station Adarsh Nagar, District Faridabad.

2. The FIR was lodged on the allegations that the petitioner, who is brother-in-law of the victim, took her away along with one friend Kali on the pretext of marriage on 24.12.2021. The complainant contacted the petitioner on 28.12.2021, but the victim was not given to him. Panchayat was also held in this regard where the petitioner's father sought time till 17.01.2022 for return of the victim. But she remained untraceable.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the case as there was no motive for him to entice away the victim. Other persons named in the FIR with similar allegations have been found innocent during investigation. He further submits that during trial the prosecutrix, the complainant and her mother have been examined; whose statements have been placed on record as Annexures P-3 to P-5. None of them has supported the prosecution version, and the victim herself has stated that she was more than eighteen years of age on the date of alleged incident; no wrong act was committed with her by the petitioner, and nobody had enticed her away on the pretext of marriage.

4. Learned State counsel, upon instructions from ASI Taleem Hussain, opposes the grant of bail on the ground that there is medical evidence indicating sexual assault on the victim. As of now, three prosecution witnesses have been examined and the remaining eighteen official witnesses will soon be examined. The petitioner is in custody since 26.02.2022, and has no other case pending against him.

5. The submissions made by learned counsel for the parties have been considered.

6. The material prosecution witnesses already stand examined, and none of them has supported the prosecution version. Besides, there are different versions about the victim's age, and she claims herself to be more than eighteen years of age at the time of alleged incident. Culpability of the petitioner is a matter of trial, which will take some time to conclude as eighteen more prosecution witnesses still remain to be examined. There is no apprehension of their being influenced or threatened by the petitioner as all are officials. The petitioner is in custody for the last over one year and three months, and has no criminal antecedents. No useful purpose will be served

by confining him to custody any longer.

7. Accordingly, petition is allowed and the petitioner is directed to be released on regular bail subject to the satisfaction of the trial Court/Duty Magistrate concerned.

**(TRIBHUVAN DAHIYA)
JUDGE**

31.05.2023

Maninder

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