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**(2024) 06 RAJ CK 0052**

**Rajasthan High Court**

**Case No:** Criminal Suspension of Sentence No.705 Of 2024

Mohammad Ali and Ors.

APPELLANT

Vs

State of Rajasthan

RESPONDENT

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**Date of Decision:** June 11, 2024

**Acts Referred:**

- Code of Criminal Procedure 1973 - Section 389

**Hon'ble Judges:** RAJENDRA Prakash Soni, J

**Bench:** Single Bench

**Advocate:** S.S. Rathore, Anita, Kuldeep Sharma

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### **Judgement**

This application for bail under Section 439 Cr.P.C. has been filed by the petitioner who has been arrested in connection with F.I.R. No.90/2024, registered at Police Station Mandalgarh, District Bhilwara, for the offences under Sections 363, 342, 384, 376(2) (n) and 406 of IPC & Sections 3/4 of POCSO Act.

Learned counsel for the petitioner submitted that Victim- 'G', who is aged about 17 years, has voluntarily went away from her house with the present petitioner and remained in his company, out of her own free will and volition. Learned counsel submitted that while she was in company of the present petitioner, she had travelled with him to various places using public transportation and stayed in a hotel situated in thickly populated area. However, despite having ample opportunities, she did not disclose the factum of she being forcibly abducted or subjected to sexual assault-rape by the present petitioner to any person which is indicative of the above mentioned fact. Learned counsel submitted that as a matter of fact, on relations between them turning strained, the petitioner has been roped in false criminal case.

Lastly, learned counsel submitted that the petitioner is in judicial custody and the trial of the case will take sufficiently long time, therefore, the benefit of bail should be granted to the accused-petitioner.

**Per Contra**, learned Public Prosecutor has vehemently opposed the bail application and submitted that looking to the seriousness of accusations levelled against the present petitioner, he does not deserve to be enlarged on bail.

Heard learned counsel for the petitioner and learned Public Prosecutor. Perused the material available on record.

This Court, vide order dated 24.05.2024, directed the learned Public Prosecutor to procure the case diary from the Investigating Officer. In compliance of the order dated 24.05.2024 passed by this Court, learned Public Prosecutor has produced the case diary before this Court.

Having considered the rival submissions, facts and circumstances of the case and after perusing the statements of Victim- 'G' recorded under Section 164 Cr.PC., this Court prima facie finds that sufficient force in the argument of learned counsel for the petitioner that Victim- 'G' had voluntarily went away from her house (along with some ornaments) with the present petitioner and remained in his company out of her own free will and volition. The statements of Victim- 'G' recorded under Section 164 Cr.P.C are also indicative of the fact that despite having ample opportunities, she did not disclose the factum of she being forcibly abducted or subjected to sexual assault-rape by the present petitioner, to any person. This Court also prima facie finds that the prosecution has not shown any apprehension of the petitioner influencing Victim- 'G' or fleeing away from justice, in case, he is enlarged on bail. Thus, without expressing any opinion on merits/ demerits of the case, this Court is inclined to enlarge the petitioner on bail.

Consequently, the bail application under Section 439 Cr.P.C. is allowed. It is ordered that the accused-petitioner **Hari Lal Regar S/o Shankar Lal Regar** arrested in connection with F.I.R. No.90/2024, registered at Police Station Mandalgarh, District Bhilwara, shall be released on bail, if not wanted in any other case, provided he furnishes a personal bond of Rs.50,000/- and two sureties of Rs.25,000/- each, to the satisfaction of learned trial court, for his appearance before that court on each & every date of hearing and whenever called upon to do so till completion of the trial.