

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

CRM M 18625 of 2020

Date of Decision: 29.12.2020

Ninder Pal

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.Divjyot S.Sandhu, Advocate for the petitioner

Ms.Bhavna Gupta, DAG, Punjab

...

ASHOK KUMAR VERMA, J.

1. The matter is being taken up through Video Conferencing/WhatsApp due to pandemic of COVID-19.

2. This petition has been filed under under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.77 dated 22.10.2019 under Sections 363, 366-A, 376 of the IPC and Sections 4 and 8 of the POSCO Act registered at Police Station Dhilwan, District Kapurthala.

3. The story put forth by the prosecution is that Paramjit Kaur wife of Karamjit Singh made a statement to the effect that the date of birth of her daughter i.e. victim is 20.07.2002. She was studying in 10+1 class at Senior Secondary School, Dhilwan. On 21.10.2019, she went to school at 08.30 a.m. but had not returned home. They kept on searching but remained clueless. She had been enticed away by some unknown boy on the pretext of marriage. Instant case under Sections 363/366-A of IPC was got recorded. During investigation on 24.10.2019, arrest of accused Ninder Pal

was effected and from his possession victim was got recovered. In view of the supplementary statement suffered by the victim and her statement under Section 164 Cr.P.C, offence under Sections 376 of the IPC and Sections 4/8 of the POSCO Act have been added subsequently.

4. Learned counsel for the petitioner has submitted that the prosecutrix has attained majority during the course of trial and she is also ready to marry the petitioner. The prosecutrix has suffered statement recorded under Section 164 Cr.P.C. during the course of cross-examination before the trial court wherein she had stated that she left her house on her own and accompanied the petitioner voluntarily as she wanted to marry him. Learned counsel has further submitted that the petitioner is in judicial custody since 24.10.2019 and trial would take a long time to conclude. No useful purpose would be served by keeping the petitioner behind the bars.

5. Learned counsel for the State has vehemently opposed the grant of bail to the petitioner. Learned counsel has submitted that the allegations against the petitioner are serious in nature and he does not deserve the concession of bail.

6. I have heard learned counsel for the parties and gone through the paper-book.

7. It is not disputed that the prosecutrix was below the age of 18 years at the time of commission of offence. A perusal of the statement of the prosecutrix recorded on 17.12.2020 before the trial court which is already on record shows that the prosecutrix has supported the case of the prosecution and categorically deposed that on 21.10.2019, the petitioner called the prosecutrix at Miani Bus Stand, Dhilwan on the pretext that he will marry her on the very same day. After making excuse that she was going to school, she left house and reached at the said Bus Stand where the

petitioner/accused was already present and waiting for her. Petitioner took her towards road leading to Dhaliwal Bet. Thereafter, he took her to one motor near to the village situated in fields where they stayed for two days and the petitioner developed physical relationship with the prosecutrix daily, without her consent. Thereafter, the petitioner told her that they should go to Jalandhar as anybody can make complaint against them. They went to Baba Bakala on foot through fields where the villagers apprehended them and took them to the Police Station. She further deposed that petitioner/accused deceived her and committed rape upon her without her consent on the pretext of marrying her. She also identified the petitioner/accused through Video Conferencing.

8. Having regard to the totality of the facts and circumstances of this case, coupled with the above said statement made by the prosecutrix before the trial court and without expressing any opinion on the merits of the case, I do not deem it fit to grant the concession of regular bail to the petitioner. This petition is dismissed.

(ASHOK KUMAR VERMA)
JUDGE

29.12.2020
MFK

Whether speaking/reasoned

Yes

Whether Reportable

No