IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 23877 of 2020 (O&M)
Date of decision : 25.8.2020

...

Pardeep Khan

.....Petitioner

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. A.D.S. Jattana, Advocate for the petitioner.

Mr. H.S. Sullar, Deputy Advocate General, Punjab.

...

H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This petition under Section 439 Cr.P.C. for grant of regular bail has been filed by petitioner Pardeep Khan, aged 25 years, resident of village Bhagi Ke, Tehsil, Nihal Singh Wala, District Moga, an accused in FIR No. 104 dated 16.7.2017, for offences under Sections 363, 366-A, 120-B IPC and under Sections 5, 6 of POCSO Act, 2012, registered at Police Station, Nihal Singh Wala, District Moga.

In nutshell, the prosecution story is that, the criminal machinery was set into motion by complainant – Darshan Singh s/o Jalour Singh, resident of Patti Ravidass Takhatpura, Nihal Singh Wala, District Moga, who in his statement got recorded with the

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police stated that he has a daughter (name withheld to conceal the identity), having date of birth 18.3.2001, aged about 16 years and 4 months, who had passed Matriculation examination; that his said daughter had gone to sleep on 1.7.2017 but on the next day in the morning, she was found missing from the house; that despite intensive search by him and his relatives, she could not be traced out. In his statement, the complainant suspected Pardeep Khan – present petitioner for having abducted his minor daughter by giving her allurement.

After recording of FIR, the investigation in the case started. The accused was arrested in this case on 2.9.2019. He is in custody since then. He had approached Judge, special Court, Moga, for grant of regular bail. However, his such application was declined by the said Court vide order dated 21.12.2019. Thereafter he had knocked at the door of this Court by way of filing a petition, craving for grant of similar relief. However, his such petition bearing CRM-M-12678 of 2020, was withdrawn by his counsel, who sought liberty to file a fresh petition after statements of prosecutrix, complainant and other material witnesses were recorded.

Now, he has approached this Court again, seeking similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record.

Learned counsel for the petitioner has contended that no offence against the petitioner is made out. As a matter of fact, the

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present petitioner and daughter of the complainant were having liking for each other and they wish to get married. But parents of the girl were unwilling to do so. Therefore, Pardeep Khan – petitioner and the girl in question left their houses and got married. They re-performed the ceremonies of marriage in the month of May 2019, when the girl had attained the age of majority. Thereafter, they had approached this Court seeking protection, which was accordingly, granted to them, vide order dated 24.5.2019 passed in CWP No. 14051 of 2019.

Learned counsel for the petitioner has further contended that the couple had been residing happily. The girl while getting her statement recorded in the Court as PW-3, had not supported the prosecution story that she had been kidnapped by the petitioner or raped by him. She had been declared a hostile witness. Furthermore, the complainant Darshan Singh appearing as PW-1, while his wife Charanjit Kaur appearing as PW-2, admitted in their cross-examination that they had not seen their daughter going with the accused. Therefore, no offence is made out.

Learned State counsel has contended that the prosecutrix happen to be a minor girl, who had been kidnapped by the petitioner giving her allurement of marriage and her consent, if any, is immaterial. Both, the complainant and his wife, have supported the cases of the prosecution. Therefore, the petitioner does not deserve the concession of bail.

After hearing learned counsel for the parties, I find that no

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case for grant of regular bail to the petitioner comes out to be there.

As per specific case of the prosecution, at the time of kidnapping of daughter of the complainant by the accused, she was aged about 16 years and 4 months. The incident had taken place on the intervening night of 1/2nd July 2017. While appearing as PW-3, the prosecutrix had given her date of birth as 18.3.2001, proving her birth certificate as Exhibit P-2, which corroborates the version of the prosecution that on the day of incident, she was aged about 16 years and 4 months , as such a minor. The parents of the girl happen to be her natural guardians. As per the prosecution story, the petitioner had kidnapped the minor daughter of the complainant, taking her out of custody of parents of the girl without their consent, rather against their wishes and then got married with her. Though the petitioner claims that it was with consent of the girl, but legally speaking, consent of a minor is of no value in the eyes of law. Both PW-1 Darshan Singh and PW-2 Charanjit Kaur, have supported the case of the prosecution in the trial court. Merely by their saying that they had not seen their daughter going with the accused, does not help the accused much, since in the FIR the complainant had named the petitioner as a suspect. The petitioner had been arrested and his involvement in the incident was found to be there during investigation, for the said reason he has been challaned and sent up to face trial. The acts attributed to the petitioner cannot be taken lightly. The trial against the petitioner is going on. His guilt shall be determined during the trial, which is expected to be concluded in near

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future.

Under the circumstances, no case for grant of regular bail to the petitioner is made out. The petition is without any merit and is dismissed accordingly.

(H.S. Madaan)
Judge

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Whether speaking / reasoned Yes / No

Whether reportable Yes / No

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