

CRM-M No.25550 of 2020(O&M)

Date of Decision : 25.09.2020

Govinda

...Petitioner

Versus

State of Punjab

....Respondent

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : Mr. R.S. Sekhon, Advocate for the petitioner.
Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

B.S. Walia, J. (VC)

Case is being taken up for hearing through Video Conferencing due to the outbreak of Covid-19 pandemic.

CRM-23635-2020***Allowed***, as prayed for.

Statements of the prosecutrix recorded under Sections 161 & 164 Cr.P.C. as Annexures P-3 & P-4, are taken on record.

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[1] Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.112 dated 12.10.2019 registered under Sections 363/366-A IPC, (Section 376 IPC and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 were added later on) at Police Station Mamdot, District Ferozepur.

[2] Learned counsel for the petitioner contends that as per the allegations in the FIR, the petitioner accompanied co accused Ritik on 10.10.2019 when he met the prosecutrix, who was made to sit in a car on the pre-text of marrying Ritik, that the same was witnessed by the prosecutrix's

brother, that the prosecutrix's family searched for the prosecutrix for two days, whereafter complaint was lodged on 12.10.2019 and the prosecutrix recovered from the railway station.

[3] Learned counsel has also referred to the statement of the prosecutrix under Section 164 Cr.P.C. (Annexure P-4) as per which, the prosecutrix had gone to her *Bhua's (Aunt)* house during summer (June) vacations in the year 2019, there she initially rejected friendship proposed by Ritik but later accepted the proposal, that accused Ritik gave her a mobile along with *sim* card on which they talked with each other for 02 months, that on her friendship with accused Ritik coming to the knowledge of her parents, she was advised by her parents, whereupon she handed over the mobile phone to her parents and stopped talking with accused Ritik, that she had also gone with Ritik to see a movie, that accused Ritik's parents sent a proposal for her marriage with Ritik but her parents refused whereupon Ritik's parents informed that if the marriage proposal was not accepted, Ritik would commit suicide and that he had already tried to hang himself on 2-3 occasions, that on 10.10.2019 at about 08.30 p.m. when the prosecutrix was going to a shop to get milk, accused Ritik and co accused Govinda (petitioner), whose faces were muffled stood in her way and forced her to sit in a car in which there was another person Raja, by threatening her that if she raised any noise, they would implicate her family members in some false case and then took her to the house of a relative of accused Ritik, which was vacant, in village Malwal where she was kept by accused Ritik for 02 days and he did wrong acts with her against her wishes besides made her videos and then took her to the railway

apprehended her as well as accused Ritik. The statement further records that while accused-Ritik did wrongful acts with her, co accused Govinda (petitioner) helped him.

[4] Learned counsel for the petitioner states that the main accused is Ritik, that the prosecutrix was in tacit understanding with Ritik, that she never raised a hue or cry either at the time of alleged abduction nor at the time she was apprehended with accused Ritik, there is unexplained delay of 2 days in lodging of the FIR as the alleged occurrence took place on 10.10.2019 while FIR was registered on 12.10.2019 despite the prosecutrix's brother being a witness to the prosecutrix being taken in a car on the pretext of marriage with Ritik, that there was relationship between the prosecutrix and Ritik and that the petitioner has been falsely implicated. Learned counsel further contends that the petitioner has been in custody since 12.10.2019. Challan has been filed. Charges have been framed and out of 14 prosecution witnesses, not even a single witness has been examined and that in the circumstances, no useful purpose would be served by keeping the petitioner in custody on account of circumstances prevailing due to corona virus pandemic.

[5] Learned State counsel has not controverted the aforementioned factual position. He, however, states that the petitioner accompanied the main accused i.e. Ritik in the abduction of the prosecutrix, therefore, is not entitled to grant of regular bail.

[6] I have considered the submissions of learned counsel for the parties. Admittedly, main accused is Ritik with whom the prosecutrix was having a relationship for a number of months whereafter she claims that she

being used by her to talk regularly with Ritik but despite break-up the prosecutrix got into the car on 10.10.2019 allegedly on being told by Ritik that he wanted to marry her (as per the FIR) whereas as per her statement under Section 164 Cr.P.C. she was forced to get into the car on threat of implication of her family in a false case. Challan has been filed. Charges have been framed and out of 14 prosecution witnesses, not even a single one has been examined.

[7] Accordingly, without expressing any opinion on the merits of the case, the petition for regular bail is allowed and the petitioner is ordered to be released on bail during the pendency of the trial subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/CJM/Duty Magistrate concerned provided he is not required in any other case. It is further made clear that the petitioner shall comply with the conditions contained in Section 437(3) Cr.P.C. and it would be open to the prosecution to move an application for cancellation of bail in case any attempt is made to intimidate or influence the prosecution witnesses.

September 25, 2020

'Rajneesh-Amit'

(B.S. Walia)

Judge

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