

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27986 of 2020
Date of Decision 21.09.2020

Jaibir

.....Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR.JUSTICE ARUN PALLI, JUDGE

Present : Mr. Anil Kumar Malik, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.
(The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual Court).

ARUN PALLI, J. (Oral):

The petitioner prays for a regular bail under Section 439 of the Code of Criminal Procedure in FIR No. 147 dated 16.12.2019, under Sections 363/366-A/506 of the Indian Penal Code, and Section 4 of the Protection of Children from Sexual Offences Act, ('the Act' for short), registered at Women Police Station, District Jind.

As per prosecution version, petitioner-Jaibir, on 13.12.2019 at about 12 O'clock, came to the house of the victim and enticed her away to his house. As instructed by the petitioner, she also took away Rs.90,000/- and some ornaments from her house. Whereafter, Jaibir and his parents took her to Women Police Station. Jaibir had some phone recordings because of which he was time and again threatening and pressurising the victim to marry him. And, the victim was even molested by the petitioner.

Learned counsel for the petitioner submits that *ex facie*, implication of the petitioner is false, and so is the prosecution story. In fact,

the petitioner and the victim were not only residents of the same village, but they also studied in the same school, i.e. Bal Ashram. The victim wanted to marry the petitioner. But her parents never agreed. In fact, on 15.12.2019, at about 7:00 AM, complainant herself came to the house of the petitioner and said that her parents wanted to marry her contrary to her wishes, but as she was in love with the petitioner, she wanted to marry him. Father of the petitioner contacted victim's father (Dharambir) on phone and informed him that his daughter was at their house. Subsequently, parents of the complainant even produced her in the Women Police Station, Jind. Statement of the victim was recorded in the presence of SHO Sheela Devi, wherein she stated that she had visited petitioner's house at her own will for she wanted to marry him. But, soon thereafter, the complainant changed her statement. On 24.12.2019, when the petitioner appeared in the police station, he was taken in custody.

On the one hand, allegations against the petitioner was that on the intervening night on 14/15.12.2019, upon being asked by the petitioner, complainant brought Rs.90,000/- and some ornaments from her house, as the petitioner wanted to forcibly marry the complainant, whereas on the other, in her supplementary statement recorded on 17.12.2019, she denied the allegation as regards Rs.90,000/- and ornaments. And, instead levelled allegation of rape against the petitioner, which is why Section 4 of the Act was added on deletion of Section 8 of the Act. He submits that Aadhar Card (Annexure P-1) reveals that victim was born on 1.1.2001, meaning thereby, she was more than 18 years of age at the time of alleged occurrence and, therefore, no offence under Section 4 of the Act was made out. Further, the victim has already contracted marriage with someone else. Whereas, the

petitioner, who was barely 19 years of age and was a student of 12th standard, is actually a victim, owing to his false implication. Not just that, he was in custody since 24.12.2019, i.e. for the past 9 months.

Mr. Kiran Pal Singh, learned Assistant Advocate General, Haryana, submits that though the challan has already been filed, but the charges are yet to be framed, and the matter is posted for 23.9.2020. However, he fairly points out that out of total 12 prosecution witness, none has been examined to date.

Accordingly, the petition is allowed and the petitioner is ordered to be enlarged on bail subject to furnishing adequate bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

Needless to assert that this order or any observation made hereinabove shall not constitute any expression of opinion on the merits of the case.

(ARUN PALLI)
JUDGE

September 21, 2020

AK Sharma

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