

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

CRM-M-11393-2021

Date of decision : 20.09.2021

Dalwinder Singh

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Sandeep Siwach, Advocate
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

Petitioner has approached this Court for grant of regular bail in case FIR No.96 dated 25.06.2020, under Sections 363, 366-A, 120-B and 376 of Indian Penal Code, 1860 and Sections 3 and 4 of Protection of Children from Sexual Offences Act, 2012, at Police Station Joga, District Mansa.

It has been contended that the petitioner was falsely implicated in the FIR and he is suffering incarceration since 9th July, 2020. He submits that the FIR was registered by father of the victim, wherein, it has been alleged that his daughter i.e. the victim was not present on 23rd June, 2020 when they return from field. It was suspected that the victim has been allured by accused-Jiwan Singh on the basis of which the request was made to take the legal action. It is contended that the victim was finally recovered from the custody of the petitioner.

Learned counsel for the petitioner submits that after the recovery of the victim from the custody of the petitioner, her statement under Section 164 Cr.P.C. was recorded, wherein, she deposed that she went with the petitioner of her own will. He vehemently contends that as on the

date, all the material witnesses i.e. the victim, father of the victim and her mother, all three, have been examined by the trial Court as PW-1, PW-2 and PW-3 respectively. On their examination, all these three material witnesses, failed to support the case of the prosecution and were thus, declared hostile on the request of learned Public Prosecutor. He submits that in the attending circumstances, further incarceration of the petitioner is totally unwarranted, who is behind the bars, from the last more than one year.

Mr. M.S. Nagra, AAG, Punjab for the State opposes the submissions made by counsel for the petitioner and submits that the victim is a minor and serious allegations have been levelled against the petitioner. However, he candidly agrees with the fact that the material witnesses have not supported the case of the prosecution. He submits that in all there are 23 prosecution witnesses, out of which 5 have been examined including the three material witnesses.

I have heard counsel for the parties and perused the record.

I find that the petitioner is behind the bars since 9th July, 2020 and the material witnesses have not supported the case of the prosecution. The trial would take sufficient time in its conclusion.

In the overall facts and circumstances of the case, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

20.09.2021
m. sharma

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