

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-21582-2021

DATE OF DECISION: JUNE 7, 2021

MITHU

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. A.D.S. SUKHIJA, ADVOCATE FOR THE PETITIONER.
MR. SAURAV KHURANA, DAG, PUNJAB.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.143 dated 13.9.2020, under Section 363, 366 IPC (Section 376, 506 IPC and Section 4 and 6 POCSO Act, added later on), Police Station Bassi Pathana, District Fatehgarh Sahib. The petitioner is in custody since his arrest on 14.9.2020.

The FIR was registered on the statement of Mohammed Shamsuddin who stated that he used to work as labourer and has five daughters and a son, namely, Jannat, Rajni (both married), Hassina Khatun, Rukaina Khatun, Harjun Khatun and Mohammed Israt. On 11.9.2020, at about 8.30 p.m, his daughter Hasina Khatun had gone to ease herself near the huts, but did not return. He and his family members searched for her, but could not find her, and later, he came to know that one boy Mithu son of Vasir Mohammed had induced and enticed her away. On these broad allegations, the present FIR was registered.

Learned counsel for the petitioner has argued that initially the

FIR was registered for the offences punishable under Section 363, 366 IPC, and later on, the other offences punishable under Section 376, 506 IPC and Section 4 and 6, POCSO Act were added. He has invited the attention of the Court to the deposition of the prosecutrix recorded before the trial Court as PW1 to contend that her statement contains material contradictions and renders the prosecution case doubtful. He submits that the statement of the complainant was also recorded as PW2 who has not even disclosed the date of birth or age of his daughter. It is pointed out that the trial Court noticed the age of victim on appearance as 17-18 years at the time of her deposition. According to him, only four prosecution witnesses have been examined so far, out of total 24 prosecution witnesses and the trial is likely to consume considerable time. He prays that the petitioner be released on regular bail during the pendency of the trial.

On the other hand, learned State counsel assisted by SI Pushpa Devi has opposed the aforesaid prayer on the ground that the allegations are serious and the prosecutrix was recovered on 14.9.2020 when she was with the petitioner. However, it is not disputed that the prosecutrix and her father have been examined as witnesses before the trial Court.

At this stage, Mr. Sukhija, has invited the attention of the Court to the cross-examination of the victim to highlight the admission that she does not know as to whether on 14.9.2020, she remained at home or went out to work.

After hearing learned counsel for the parties and considering the above background as well as the custody of the petitioner, this Court is of the opinion that though the trial has commenced, but only four

prosecution witnesses have been examined so far, therefore, there is no possibility of conclusion of trial in near future. The material witnesses have already been examined by the prosecution and the remaining witnesses are the official witnesses and there does not seem to be any likelihood of their being won-over. Apart from it, the belligerent re-emergence of pandemic COVID-19 in the region has once again forced the State governments of Punjab, Haryana and U.T. Administration, Chandigarh to impose various restrictions to clampdown the contagion, and it would further delay the conclusion of trial. Thus, the further detention of the petitioner behind the bars may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 14.9.2020.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

June 7, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No