

CRM-M-20129-2021

Date of Decision: 26.10.2021

Laddi Masih

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Gobind Singh Randhawa, Advocate, for the petitioner.
Ms. Amarjit Kaur Khurana, Deputy Advocate General, Punjab.
Ms. Neetu Singh Aashat, Advocate, for the complainant.

Rajesh Bhardwaj, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The petitioner has approached this Court praying for regular bail in case FIR No.52 dated 14.6.2017 registered under Sections 363, 366-A IPC (Section 376 IPC and Section 4 of POCSO Act, 2012 added later on) registered at Police Station City Ramdas, Police District Amritsar (Rural), District Amritsar.

As per the factual matrix of the case, the present FIR was lodged by the father of the victim, namely, Victor Masih, wherein he alleged that his 14 years old daughter went missing when he left for work on 6.6.2017. When his daughter was searched, she was not found in the house. They tried their best to trace out her but failed. Thereafter, on 6.6.2017 in the evening, the complainant received telephonic call that his daughter is with the person who is calling on telephone and they have solemnized marriage. It was alleged that the victim is 14 years of age and thus, a minor and request was made to take legal action against the culprits. The petitioner

could not be arrested and finally he was declared proclaimed offender. Thereafter, he was arrested on 6.3.2021. The petitioner approached the learned Additional Sessions Judge, Amritsar for grant of regular bail, however, the same was declined vide his order dated 2.4.2021. Aggrieved by the same, the present petition has been filed by the petitioner.

Learned counsel for the petitioner submits that the petitioner and the victim had performed marriage and the allegations levelled in the FIR are false and frivolous on the face of it. He submits that the complainant, who is the father of the victim had lodged the FIR only as an act of vendetta against the petitioner. He submits that the false implication of the petitioner in the case is evident from the fact that the father of the victim has been examined by the trial Court as PW-2, whereas the victim has been examined as PW-1. Copies of the testimony of both the witnesses have been appended with the petition. He contends that both the material witnesses have failed to support the case of the prosecution and have been declared hostile on the request of learned Public Prosecutor. He submits that the material witnesses having not supported the case of the prosecution, the incarceration of the petitioner is totally unwarranted.

Learned State counsel has vehemently opposed the submissions made by the petitioner on the ground that the victim is a minor and the offence committed is heinous in nature. However, she candidly submits that the complainant and the victim have not supported the case of the prosecution. She further submits that out of total 20 prosecution witnesses, 2 witnesses have been examined by the trial Court.

Learned counsel for the complainant has also endorsed the fact that the complainant and the victim have not supported the case of the prosecution.

Heard learned counsel for the parties.

Going into the merits of the case is not warranted at this stage. However, keeping in view the fact that the petitioner is behind bars since 6.3.2021 and both the material witnesses having not supported the case of the prosecution, this Court finds it appropriate that the petitioner be enlarged on bail. The trial would take some time to conclude. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail 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

26.10.2021

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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No