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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21417-2021 (O&M)
Date of decision : 07.09.2021

Sunny

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr. Chandan Singh Rana, Advocate
for the petitioner.

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

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.

CRM-28540-2021

Application is allowed as prayed for.

Annexure P-5 is taken on record.

CRM-M-21417-2021

Petitioner has approached this Court by way of filing petition under Section 439 Cr.P.C. seeking grant of regular bail in FIR No.194 dated 12.09.2020, registered under Sections 376, 366-A, 363, 346 of the Indian Penal Code, 1860 and Sections 3 and 4 of The Protection of Children from Sexual Offence Act, 2012 (for short 'the Act'), at Police Station Division No.7, District Ludhiana.

Learned counsel for the petitioner submits that the petitioner was falsely implicated in the FIR which has been lodged by the father of the victim. He submits that the father of the victim has alleged that his daughter (victim) was born on 8th October, 2004 and was being harassed by one boy namely, Lucky due to which he withdrew his daughter from the school. Thereafter, he found that the victim was missing from the house. He made his best efforts to trace out the victim. However, later on, he came to know that his daughter has solemnized married with Sunny, the petitioner, who enticed her away from home on the pretext of marriage. The investigation was carried out and the challan was presented. The petitioner was arrested on 26th October, 2020. He further submits that the victim is the daughter of the complainant from his first marriage. She was being harassed by the family members and the petitioner and the victim performed the marriage voluntarily, without any coercion and pressure and therefore, the implication of the petitioner at the behest of the father is totally motivated. He submits that during the trial, the father and the victim, both have been examined by the trial Court. He submits that though, the father deposes before the Court that all the allegations made in the FIR are correct, whereas, the victim who had been examined as PW-4 has not supported the case of the prosecution at all rather, she has deposed before the Court that accused namely, Sunny had committed no wrong act with her and she went with Sunny on 7th September, 2020 of her own after having arguments with her father and thereafter, they stayed at Golden Temple at Amritsar as well.

Learned counsel for the petitioner submits that in view of the attending circumstances, false implication of the petitioner is evident and his incarceration is totally unwarranted.

On the other hand, learned State counsel submits that the victim is minor and there are serious allegations against the petitioner. He submits that out of total 12 prosecution witnesses, 03 are examined. However, he is not in a position to deny the factual aspect that the prosecutrix has not supported the case of the prosecution. He endorsed that the petitioner is behind bars since 26th October, 2020.

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

In view of the above, I find that the prosecution has cited 12 prosecution witnesses, out of which 03 are examined and the victim has not supported the case of the prosecution. Hence, the petitioner deserves to be enlarged on bail. 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

07.09.2021
m. sharma

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No