

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

CRM-M-22585-2021

Date of decision : 24.06.2021

Hardeep Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr. N.S. Dandiwal, Advocate
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, 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.

The present petition is filed under Section 439 Cr.P.C. seeking grant of regular bail in FIR No.56 dated 04.07.2020 registered under Sections 363, 366-A of the Indian Penal Code (Section 376 IPC and Section 4 of POSCO Act added later on) at Police Station Badhni Kalan, District Moga.

The author of the FIR is father of the prosecutrix namely, Bhagwan Singh. It has been alleged in the FIR that his daughter (prosecutrix) whose date of birth is 09.09.2003, was not found in the house and a suspicion was raised that she had been abducted on the pretext of marriage by Hardeep Singh son of Gurmail Singh, who is none other than the petitioner. In pursuance to the same, FIR was got registered and investigation carried out and the challan presented by the investigating officer.

Learned counsel for the petitioner contends that it is a case of total false implication at the behest of the family members of the prosecutrix. He has asserted that the statement of the prosecutrix was recorded under Section 164 Cr.P.C. wherein the offence as alleged are not made out. He has relied upon the statement of the prosecutrix recorded during the trial wherein she has been examined as PW1. The statement has been appended with the petition as Annexure P-3. The statement shows that the prosecutrix has not supported the case of the prosecution and she was declared hostile on the request of the Public Prosecutor. He further contends that the prosecutrix was examined by the doctor but the medical record do not corroborate the ocular version of the case of the prosecution. He further contends that as the prosecutrix has been examined and she has not supported the case of the prosecution, therefore, the further incarceration of the petitioner is unwarranted.

Learned State counsel has argued that allegations levelled against the petitioner are serious in nature. He has further argued that out of total 11 prosecution witnesses, the prosecutrix has been examined and for examining the rest of the witnesses the next date is 30.06.2021. He has placed on record the custody certificate of the petitioner which shows that his custody amounts to 11 months and 13 days upto 23rd June, 2021 and there is no other case pending against him.

There is no gainsaying that allegations mentioned in the case are of serious in nature. However, the Court is seized only of the bail matter at this stage. The fact of resiling from the statement by the prosecutrix is an admitted fact. The custody certificate shows the period undergone by the petitioner behind the bars and the registration or pendency of any other case

against him. As the prosecutrix has already been examined, I do not find that there is any scope of extending any threat by the petitioner, if any, to the prosecutrix as she is the most vital prosecution witness in the case.

In view of overall facts and circumstances of the case, I am of the opinion that the trial of the case would take sufficient time for its conclusion and in the facts and circumstances of the case, no useful purpose would be served by further keeping the petitioner behind the bars. As a result, I find that learned counsel for the petitioner has succeeded in making out a case for bail to the petitioner. 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

24.06.2021
m. sharma

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