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

**CRM-M-24841-2021 (O&M)
Date of decision : 26.10.2021**

Sanjeev Kumar

.... Petitioner

Versus

Union Territory, Chandigarh

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Shvetanshu Goel, Advocate
for the petitioner.

Mr. Y.S. Rathore, APP, UT Chandigarh with
Ms. Sudha Singh, Advocate and
Kr. Yuvraj Singh Rathore, Advocate.

RAJESH BHARDWAJ, J.

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-35619-2021

Application is allowed as prayed for.

Annexures A-1 and A-2 are taken on record.

CRM-M-24841-2021

Prayer in this petition under Section 439 Cr.P.C, is for grant of regular bail in case FIR No.0035 dated 03.03.2021, under Sections 363, 366 (Section 366 IPC added later on), at Police Station Sector 36, Chandigarh.

Succinctly, the facts of the case are that the FIR was registered by the complainant-Krishna Devi. It was alleged that she and her daughter were doing cleaning work in different houses. On 27th February, 2021, the complainant asked her daughter to do the cleaning work at House No.786, Sector-43-A and she went to the adjoining house for cleaning work. When she came back and asked the owner of the house, they said that they did not permit her daughter to do the work and she went. She searched her daughter but could not get any information about her. Failing to trace her, the FIR was registered for tracing her daughter and taking the action against the culprits. It was stated that the age of her daughter is 16 years and 4 months. The FIR was registered, investigation commenced and the challan was presented. The petitioner was arrested in this case on 19th June, 2021. He preferred an application for grant of bail before the learned Additional Sessions Judge, Chandigarh, who dismissed the same vide his order dated 25th June, 2021.

Aggrieved by the same, the present petition is filed for grant of bail to the petitioner.

Learned counsel for the petitioner submits that the petitioner is falsely implicated in the FIR and no offence as alleged has been made out against him. He would submit that the petitioner and the victim are married on 3rd March, 2021 with their own free will and without any coercion or undue influence. He has further argued that both of them approached learned Additional Sessions Judge for protection of their life and liberty which was granted by the learned Additional Sessions Judge, Amritsar vide order dated 05.03.2021. Despite these facts having been in the knowledge of

the police and the family members, the present FIR was malacioulsly registered against them which is totally false and frivolous. Learned counsel has vehemently argued that the trial Court had already taken the cognizance of the offence and the victim and the complainant both have been examined by the trial Court as PW1 and PW2. The copies of their depositions are placed on record. It is evident that both these material witnesses have not supported the case of the prosecution and thus, they have been declared hostile. Learned counsel for the petitioner submits that as both the material witnesses have been declared hostile, incarceration of the petitioner is totally unwarranted and he deserves to be enlarged on bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner. He submits that there are specific allegations against the petitioner that he has abducted a minor girl. However, he affirms the factum that that the complainant and the victim have not supported the case of the prosecution and thus, have been declared hostile. He further submits that the petitioner is behind bars since 19th June, 2021. He submits that in all there are 15 prosecution witnesses, out of which, 02 are already examined. It is evident that the petitioner is behind bars since 9th June, 2021. Though the victim is minor, however, the FIR was lodged by the mother of the victim. Both of them have been examined by the trial Court and have not supported the case of the prosecution. The veracity of the allegations would be established only after the conclusion of the trial. However, in the overall facts and circumstances of the case, this Court finds 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.

26.10.2021
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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