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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27037-2021 (O&M)
Date of decision : 28.10.2021

Arvin @ Arvind

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. S.S. Mor, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

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-35760-2021

Application is allowed as prayed for.

Annexure P-5 is taken on record.

CRM-M-27037-2021

Prayer in this petition under Section 439 Cr.P.C, is for grant of regular bail in case FIR No.0239 dated 25.04.2021, under Sections 346 of the Indian Penal Code (Sections 323, 363, 366, 376, 506 IPC added subsequently), at Police Station Shivaji Colony, Rohtak, District Rohtak.

As per the facutal matrix of the case, the present FIR was registered by mother of the prosecutrix on the basis of the allegations that her daughter is 24 years of age and she was married with Rashid son of Jalandhar. On 24.04.2021, she went out of the house by taking cash and jewellery and as she was not traceable. The request was made to search her daughter. On the basis of the FIR, investigation commenced and finally challan was presented. The petitioner was arrested in this case on 31st May, 2021. He approached the learned Additional Sessions Judge, Rohtak for grant of bail under Section 439 Cr.P.C. who after hearing the parties, declined the same vide order dated 1st July, 2021.

Aggrieved by the same, petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner vehemently contends that the prosecutrix is 24 years of age and thus, a major and a married lady. He submits that the petitioner has been falsely framed on the basis of concocted story. He has further submitted that thereafter statement of the prosecutrix under Section 164 Cr.P.C. was recorded. He submits that though, the prosecutrix deposed against the petitioner in statement under Section 164 Cr.P.C., however, now the prosecutrix has been examined by the trial Court as PW-1. He has placed on record the copy of the deposition of the prosecutrix. A bare reading of the same shows that the prosecutrix deposed that on 24.04.2021, she left the house as she was mentally disturbed and thereafter, she went to her brother at Chidawa for taking medicines. She further deposed that on 02.05.2021, she came back to Rohtak with her brother and she was never aware of the fact that whether her mother had

made a complaint to the police about her missing from the home. She was taken to the police station where police obtained her thumb impression on 4-5 blank papers. She also deposed that when she was taken before the Magistrate for recording her statement, she deposed under the pressure of the police. After this deposition, learned Public Prosecutor requested the trial Court that the witness is suppressing the truth and she be declared hostile.

Learned counsel for the petitioner vehemently contends that in view of the fact that the petitioner is major and she has totally refused to support the case of the prosecution, incarceration of the petitioner is totally unwarranted and he be enlarged on bail.

Learned counsel for the State has opposed the submissions made by learned counsel for the petitioner and submitted that the petitioner is facing the serious allegations. However, he candidly acknowledge that the prosecutrix is major and she has not supported the case of the prosecution. He further submitted that in all, there are 17 prosecution witnesses, out of which, 02 have been examined.

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

There is no gainsaying that the prosecutrix is major and she has not supported the case of the prosecution. The trial would take some time as there are 17 prosecution witnesses, out of which, 02 have been examined. This Court finds that in view of the peculiar facts and circumstances of the case, further incarceration of the petitioner is totally unwarranted. The trial of the case will take sufficient time to conclude.

Accordingly, 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.

28.10.2021
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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