

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

CRM-M-32627-2021

Date of decision : 17.08.2021

Rohit Kumar

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr. Mohit Garg, 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.

The present petition is filed under Section 439 Cr.P.C. seeking grant of regular bail in case FIR No.76 dated 06.05.2019, registered under Sections 376(2)(n), 363, 366-A, 120-B, 109 of the Indian Penal Code, 1860 and Section 6 and 17 of POCSO Act, at Police Station City-I, Sangrur.

The present FIR is registered by the father of the prosecutrix, Mehar Singh, wherein he has alleged that his daughter went missing on 3rd May, 2019 whose age is about 17 years. In FIR, he has suspected the petitioner who is his nephew. In pursuance to the same, the investigation commenced. The prosecutrix returned back with the petitioner on 16th August, 2019. The petitioner was arrested and is behind bars since 18th August, 2019. Pursuant to that the statement of the prosecutrix was recorded under Section 164 Cr.P.C. wherein she alleged that the petitioner

had raped her against her consent. Thereafter, the complainant as well as the prosecutrix are examined before the Court. The statement of the prosecutrix who is examined as PW-2 finds mention that when she had taken an amount of Rs.50,000/- as well as ornaments while leaving the home. She has deposed that she remained with the petitioner at Mainpuri for 3-4 days and thereafter, they went to Firozabad, Agra staying at different places. She deposed that petitioner brought her back to Chandigarh by bus.

Learned counsel for the petitioner submits that though the prosecutrix has levelled the allegations against the petitioner, however, the depositions would show that the petitioner had never compelled the prosecutrix and she went of her own with the petitioner and they stayed at different places for about 3 months. He further submits that prosecutrix is 17 years 10 months of age and being less than 18 years, offence under the POCSO Act has been added. He contends that petitioner is behind bars from last about 2 years and there would be no apprehension of tampering with the evidences as the material witnesses already stand examined.

Mr. M.S. Nagra, AAG, Punjab for the State affirms that the material witnesses have already been examined. He has submitted that out of 19 prosecution witnesses, 10 are already examined. However, he opposes the grant of bail.

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

In the overall facts and circumstances, I find that the petitioner is behind bars since 18th August, 2019 and the material witnesses already stand examined. The trial would take some time for its final conclusion.

In the overall facts and circumstances of the case and keeping in view the custody period undergone by the petitioner, the 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.

17.08.2021
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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