

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(229)

CRM-M-33949-2021(O&M)

Date of Decision: 24.08.2021

Nand Kishore Yadav

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. K.S. Derabassi, Advocate for the petitioner.

Mr. M.S. Nagra, A.A.G., 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 has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.0315 dated 20.11.2019 under sections 363, 366-A I.P.C (later on section 376 IPC and section 6 of POCSO Act were added), registered at Police Station, Dera Bassi, District S.A.S. Nagar.

The FIR in question was lodged by complainant Vekatesh Kumar, who is the father of the victim. The complainant alleged that his eldest daughter i.e. the victim is 15 years old and on 19.11.2019 she was sleeping in a separate room and when they got up at 4 AM in the morning, they found the victim missing from the room. It has been further alleged that the petitioner had allured her on the pretext of marriage.

In pursuance to the completion of investigation, challan was presented in the competent court of jurisdiction.

Learned counsel for the petitioner vehemently contends that the petitioner was falsely implicated in the present FIR and no offence, as alleged, is made out against him. It has been further contended that the mother of the victim has been examined before the Trial Court as PW-1, victim as PW-2 and the complainant/father of victim as PW-4. Counsel has placed on record testimonies of all these material witnesses, which reflect that all these witnesses did not support the case of the prosecution and hence were declared hostile. Counsel further submits that the petitioner is behind bars since 13.11.2019 and as all the material witnesses have turned hostile, there is no other material witness left to be examined and therefore further custody of the petitioner is unwarranted.

On the other hand, learned State counsel has opposed the contentions of learned counsel for the petitioner and submits that petitioner has committed a heinous offence, however, he is not in a position to oppose the factum of examination of all the material witnesses, who have turned hostile.

In the totality of circumstances and without making any observations on merits, present petition is allowed. Petitioner be enlarged on bail subject to the satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

24.08.2021

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