

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(108+214)

CRM-M-33668-2021 (O&M)
Date of decision:- 07.12.2021

Bhagwan Dass and another

... Petitioners

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Nitin Kumar Sharma, Advocate for
Mr. Pawan Attri, Advocate for the applicants-petitioners.

Mr. Deepshikha Chauhan, AAG, Haryana.

...

SUVIR SEHGAL, J. (ORAL)

CRM-41851-2021

For the reasons given in the application, it is allowed.

Statements of the prosecutrix and her father are taken on record
as Annexures P-6 and P-7, respectively.

CRM-M-33668-2021

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.681 dated 16.12.2020 under Sections 363, 366-A, 370, 370-A, 376(3), 120-B and 506 of the Indian Penal Code, 1860 (Sections 6 and 17 of the Protection of Children from Sexual Offences Act, 2012 were added later on), registered at Police Station Thanesar Sadar, District Kurukshetra, Annexure P-1.

Criminal law has been set in motion on the basis of the complaint submitted by the father of the prosecutrix, on the allegation that his 15 years old daughter is missing since 15.12.2020. By giving the description of the girl, he has requested that she be located.

Counsel for the petitioners contends that the petitioners have been roped in on the basis of the statement of the prosecutrix recorded under Section 161, Cr.P.C. after she was recovered and on the basis of the disclosure statement of co-accused, Raj Bala, and her son, Rakesh Kumar. He submits that the allegation levelled against the petitioners, who are relatives of the prosecutrix, is that they kept her in illegal custody despite being aware of the fact that she had left her paternal home and her father was looking for her. By making a reference to the deposition of the prosecutrix as well as her father, Annexures P-6 and P-7, counsel for the petitioners submits that both the material witnesses have not supported the case of the prosecution. He submits that co-accused, Raj Bala, Santosh and Randhir @ Dhira have been released on regular bail by this Court. He asserts that the petitioners, who are in custody since 24.01.2021, have an unblemished past and are no longer required for custodial interrogation.

Per contra, learned State counsel, upon instructions from, ASI, Mukesh has opposed the petition on the ground that the prosecutrix is a minor and has levelled serious and grave allegations against the petitioners. She, however, could not deny the fact that both the star witnesses have turned hostile. As per her instructions, besides the said two witnesses, the statements of remaining 18 witnesses are yet to be recorded.

Having considered the circumstances of the case, this Court is prima facie of the view that the material collected by the prosecution would remain debatable and the petitioners, who are in custody since the last more than 10 months, would be entitled to be released on bail as the trial is likely to take time to conclude.

Without examining the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioners, namely, Bhagwan Dass and Mangal Ram, are ordered to be released on bail on their furnishing adequate bail/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

07.12.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No