

225 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37504-2020 (O&M)

Date of decision : 18.08.2021

Saryug Kumar @ Sarju

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr. ADS Sukhija, 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.1 dated 01.01.2020, registered under Sections 363, 366-A, 120-B IPC (Section 376 IPC and Section 6 of POCSO Act added later on), at Police Station Civil Line, Police Commissionerate, Amritsar.

It has been contended by counsel for the petitioner that petitioner was falsely implicated in the FIR and no offence as alleged is made out against him. He submits that the case is nothing but a run away couple and they stayed in Bihar for about a month. After the return of the victim, her statement under Section 164 Cr.P.C. was recorded wherein she has categorically stated that she went with the petitioner of her own and performed marriage. She further stated that she wanted no action against

the petitioner. Counsel vehemently contends that the innocence of the petitioner is further substantiated from the fact that the material witnesses i.e. victim as PW-2, her father as PW-1, brother as PW-4 and mother as PW-3 are examined before the trial Court and all the four material witnesses did not support the case of the prosecution and turned hostile. Counsel contends that besides these material witnesses, the prosecution has no other reliable evidence against the petitioner who is behind bars from the last more than 1 ½ years and thus, his custody is totally unwarranted.

Learned State counsel opposes the contentions raised by the counsel for the petitioner that the victim is minor and thus, the petitioner does not deserve the concession of bail. However, he affirms the fact that all these material witnesses have failed to support the case of the prosecution and are declared hostile. He further submits that out of 20 prosecution witnesses, 13 are examined.

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

In the totality of the 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.

18.08.2021
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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