

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

213

CRM-M-48668 of 2021
Date of decision:25.11.2021

Raj Kumar @ Raju @ Raja Singh ... Petitioner

Vs.

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Kulwinder Singh, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, seeking grant of regular bail to the petitioner, in case FIR No.62 dated 23.04.2021 registered under Sections 363, 366-A of India Penal Code, 1860 at Police Station Sardulgarh, District Mansa (Annexure P-1).

Criminal law was set in motion, on the basis of a statement of father of 17½ years old girl, on the allegation that his daughter, whose date of birth is 21.09.2003, is missing from her home from the morning hours of 23.04.2021 and despite extensive search, she could not be traced. The complainant suspected that Raja Singh (present petitioner) has enticed his daughter with a promise of marriage.

Counsel for the petitioner submits that though the petitioner and prosecutrix were found to be living together, but in her statements recorded before the investigating agency, she has categorically stated that she was beaten by her father and uncle, who insisted on getting her married and she left her parental home with the petitioner of her own volition. She further stated that she stayed at the residence of an aunt for two months and there were no physical relations between her and petitioner. Counsel submits that prosecutrix has refused her medical examination. He submits that the petitioner and the prosecutrix were in a live-in-relationship and on a joint petition filed them, Punjab State Human Rights Commission, vide order dated 12.05.2021 (Annexure P-2), directed the Senior Superintendent of Police, Mansa to look into their complaint and provide them security, if necessary. It is his assertion that offences under Sections 363, 366-A IPC, are not made out against the petitioner, who has unblemished past and is in custody since 18.06.2021.

Per contra, State counsel, upon instructions from ASI Avtar Singh, has opposed the petition and submitted that the petitioner has been specifically named in the FIR and the prosecutrix was recovered from his custody on 18.06.2021. He, however, could not deny the fact that in her statement recorded under Section 164 Cr.P.C, prosecutrix has not levelled any allegation against the petitioner. Upon further instructions, he submits that investigation is complete, challan has been presented on 10.09.2021, charge has been framed on 21.10.2021, but all the 14 prosecution witnesses, are yet to be examined.

Having considered the facts and circumstances of the case, this Court is *prima facie* of the view that involvement of the petitioner in the offence, would remain debatable. The petitioner, who is suffering incarceration since last more than 05 months, would be entitled to be released on bail, as the trial is likely to take time to conclude.

Without delving in the merits or demerits of the arguments addressed by counsel for the parties, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/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.

November 25, 2021
savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>