

**105+216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-54703-2019 (O&M)

Date of Decision: 10.11.2021

Gurpreet Singh @ Deepu

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Manjinder Singh Saini, Advocate, for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

CRM-35148-2021

For the reasons mentioned in the application, the same is allowed.

The head note, prayer clause and relevant paras of the main petitions are amended and Sections 376, 109, 120-B IPC are ordered to be added in the headnote as well as prayer clause of the petition.

CRM-M-54703-2019

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.59 dated 3.5.2019 registered under Sections 363, 366-A, 376, 376-D, 109, 120-B IPC and under Section 6 of POCSO Act, 2012 at Police Station Bullowal, District Hoshiarpur.

As per the factual matrix of the case, the FIR in question was registered by Jaswinder Singh, who is the father of the victim. The victim being less than 18 years of age, offence under the POCSO Act, 2012 was also added. It is alleged that he has three daughters and one son and his youngest daughter aged about 16 years 3 months, whose date of birth is 14.2.2003, is studying in 10th Class. Gurpreet Singh @ Deepu used to come

at the house of his neighbour Gurinder Singh for doing painting work. He instigated his daughter to marry him. On 1.5.2019, his daughter came back from school and his wife also went for work, at about 3:30 pm he came to know that Gurpreet Singh @ Deepu took away his daughter by misleading her on the pretext of marriage. The FIR was lodged for tracing his daughter and taking legal action against the culprits. The petitioner was arrested on 17.5.2019. He approached the learned Sessions Judge, Hoshiarpur for grant of bail, which was declined vide her order dated 2.9.2019. Aggrieved by the same, the petitioner approached this Court for grant of bail by way of filing the present petition.

It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present FIR as no offence against him is made out. He submits that the complainant wanted to marry the prosecutrix to some other person against her wish and due to this the prosecutrix with her own will, went with the petitioner seeking help. The prosecutrix approached this Court by filing CRM-M-20683-2019 through the petitioner as she was minor. He submits that due to fear of the family, the petitioner and the prosecutrix escaped to Nagpur and returned on 11.5.2019. Thereafter, they were apprehended by the Police. He submits that in the facts and circumstances of the case, no offence as alleged is made out against the petitioner, thus, he deserves to be enlarged on bail.

Learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner. It has been contended by her that the prosecutrix was 16 years of age and thus, being minor her consent is immaterial. It is contended that that petitioner has played a very specific

role in alluring the minor and taking her away from the custody of her legal guardians. It is further submitted that the statement of the prosecutrix was recorded under Section 164 Cr.P.C. and thereafter, she was examined before the trial Court as PW-4. A perusal of the deposition of the prosecutrix shows that the petitioner has committed house trespass and thereafter, forcibly committed rape upon the minor. It is vehemently contended that in the light of the facts and circumstances of the case, the petitioner does not deserve the leniency for grant of bail.

Heard.

Admittedly, the prosecutrix is minor and the petitioner alleged to have allured and had taken her away at various places. Statement of the prosecutrix under Section 164 Cr.P.C. was recorded and thereafter, she was examined as PW-4 before the trial Court as well, wherein the prosecutrix has specifically alleged that the petitioner forcibly took her on motorcycle to his house and thereafter, he committed rape upon her for several days against her wish. As the victim, who is minor, has supported the case of the prosecution through out, this Court does not find it appropriate to release the petitioner on bail. There are every chance that the ongoing trial may be hampered. The allegations against the petitioner are serious in nature. In the overall facts and circumstances, the petitioner fails to qualify for grant of bail. Hence, the petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

10.11.2021
sharmila

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