

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(106+216)

CRM-M-2051-2022(O&M)
Date of Decision: 23.08.2022

Akashdeep Singh

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Angel Walia, Advocate for the petitioner.

Mr. Arun Luthra, D.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

CRM-29687-2022

Application is allowed as prayed for.

Documents Annexures P-5 and P-6 are taken on record.

Main Petition

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.221 dated 23.7.2021 under sections 363, 366A, 376 IPC and section 4 of POCSO Act (section 366 IPC and sections 6/17 of POCSO Act were added and section 4 of POCSO Act deleted later on), registered at Police Station, Jandiala, District Amritsar.

As per factual matrix, the FIR in question was lodged by the father of the victim Kuldeep Singh. The sum and substance of the allegations made in the FIR is that daughter of the complainant, who was 16 years of age was studying in 7th class. On 12.7.2021 there was a festival in their village. The victim had gone in their village and later on went to the

house of her grandparents. Later on he came to know that his daughter did not reach the house of her grandparents. It was alleged that Akashdeep Singh son of Manpreet Singh and his Mausi Baby had allured her daughter on the pretext of marriage and took her away. A request was made to take legal action against the culprits.

On the complaint made by the complainant, present FIR was lodged and investigation commenced. During investigation the victim was recovered on 24.7.2021 and was produced before the Magistrate. The statement of the victim under section 164 Cr.P.C was recorded. The petitioner was arrested on 24.7.2021. He approached the learned Addl. Sessions Judge, Fast Track Court, Amritsar for grant of bail, however, after hearing the parties, the same was declined vide order dated 7.10.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case. He submits that the victim went missing on 12.7.2021 and was recovered after about 12 days i.e. on 24.7.2021. Counsel submits that even if the allegations are taken to be true, then, the petitioner and the victim stayed together for about 12 days in public places and travelled by public conveyance. He submits that victim levelled the allegations of kidnapping and rape against the petitioner only under the influence of her parents. Counsel submits that petitioner is a young boy of 19 years and has no criminal antecedents. He submits that relationship between the petitioner and victim was totally consensual. To buttress his arguments counsel submits that the Trial Court

has examined the complainant and the victim as PW-1 and PW-2 respectively. It is submitted that in her deposition victim has not levelled allegations of committing rape with her by the petitioner. She also deposed that she was having friendship with the petitioner. It was further deposed that petitioner Akashdeep Singh did not commit rape with her. She also deposed during her cross examination that she appended her signatures on the statement under section 164 Cr.P.C as she was pressurized to name the petitioner. Counsel submits that bail of the petitioner was rejected by the Trial Court on the ground that victim was not examined and there was possibility that petitioner would influence the material witnesses. He submits that now the material witnesses including the complainant and victim already stand examined and hence there is no possibility of the petitioner influencing the witnesses.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner. He submits that even if the relationship between the petitioner and victim was consensual, the same has no legal sanctity as the petitioner was minor at the time of occurrence. He submits that the allegations levelled against the petitioner were also medically corroborated. State counsel candidly submits that while appearing before the Trial Court victim has not supported the case of prosecution. He submits that as per information provided to him petitioner has no criminal antecedents. He submits that out of the total 17 prosecution witnesses 2 have been examined including the victim.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly victim went missing on 12.7.2021 and was recovered after a period of 12 days i.e. on 24.7.2021. During this period she stayed with the petitioner on public places and travelled in public conveyance. It is also admitted that victim has not supported the case of prosecution while being examined before the Trial Court. She deposed that she was pressurized to depose against the petitioner while her statement under section 164 Cr.P.C was being recorded. There is nothing on record to show that petitioner has criminal antecedents. Material witnesses including the victim have already been examined by the Trial Court and hence there is no possibility of the petitioner influencing the material witnesses. The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to 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

23.08.2022

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