

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

214

CRM-M No.1972 of 2021 (O & M)

Date of decision:30.03.2022

Tarun Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. S.K. Choudhary, Advocate for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL J. (ORAL)

CRM-38299-2021

Allowed as prayed for.

Testimony of the prosecutrix and compromise deed dated 02.08.2021 are taken on record as Annexures P-3 and P-4 respectively.

Main Case

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.22 dated 17.07.2019 registered for offences under Sections 363/366-A of IPC, 1860, (Sections 376 of IPC and Section 06 of the Protection of Children from Sexual Offences Act, 2012 were added later on) at Police Station Narot Jaimal Singh, District Pathankot, Annexure P-1.

As per the case of the prosecution, FIR, Annexure P-1, has been registered on the statement of father of 15 years old girl on the allegation that on 15.07.2019, his daughter (hereinafter referred to as - “the prosecutrix”) has gone missing and despite extensive search, she could not be found. It has been alleged that Tarun Kumar (present petitioner) has allured her on the pretext of marriage.

Counsel for the petitioner has referred to the order dated 13.01.2022 passed by this Court, which is reproduced as under:-

“Learned counsel for the petitioner submits that his false implication in the instant case is evident from the fact that while stepping into the witness-box as PW-1, the victim completely exonerated him of any wrong doing. In support, learned counsel has drawn the attention of this Court to the deposition of the victim, which has been annexed as Annexure P-3 with CRM-M-38299 of 2021, wherein, the victim had deposed that the petitioner had neither abducted her nor forced her to solemnize marriage with him. He, therefore, prays that the petitioner be extended the concession of bail, as the sole material witness i.e. The victim, already stands examined before the trial Court and his further incarceration in the circumstance would not serve any useful purpose.

The learned State counsel while opposing the prayer made by the counsel opposite, on instructions, has submitted that no doubt the victim did not support the case of the prosecution, as a result of which, she was declared hostile, but one could not ignore the fact that the victim was a 15 years old girl on the date when she went missing and as per her own statement recorded under Section 164 Cr.P.C., she had categorically stated that she had solemnized marriage with the petitioner. He further submits that besides the victim, the complainant i.e. father, who lodged the FIR in question is also a material witness, and is due to be examined on 2nd March, 2022 and hence, the petitioner be not extended the concession of bail, as there was every likelihood that he could tamper with material evidence or even abscond.

At this stage, learned counsel for the petitioner prays for an adjournment to make his submissions after the complainant i.e. The father of the victim, has been examined.

In the circumstances, the case is adjourned to 30.03.2022.”

Counsel for the petitioner submits that the complainant-father of the prosecutrix has been examined as PW-5 and in his cross-examination, he has stated that he has not seen the petitioner kidnapping his daughter and he does not even remember as to what is written in his statement

Ex.PW-5/A, which has been recorded before the police. He submits that the petitioner, who has clean antecedents and is in custody since 09.01.2020 deserves to be enlarged on bail as all the material prosecution witnesses have been examined.

Per Contra, State counsel, upon instructions from ASI Kuldeep Raj, has opposed the petition and submitted that the allegation against the petitioner is of enticing a minor girl. He has instructions to state that the trial is at an advanced stage. He has filed custody certificate dated 29.03.2022, which is taken on record.

Having considered the submissions made by counsel for the parties, this Court is of the view that the complicity of the petitioner in the offence would be a subject matter of debate before the trial court and the petitioner, who is in custody for the last more than 02 years and 02 months, would be entitled to be released on bail during the pendency of the trial.

In view of the above, without advertng to the arguments raised, petition is allowed. The petitioner is ordered to be released on bail on 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 an expression of opinion on the merits of the case.

30.03.2022
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(SUVIR SEHGAL)
JUDGE

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