

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(221)

CRM-M-1471-2022

Date of Decision: 07.09.2022

Gulab @ Ravi

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Anurag Arora, Advocate for the petitioner.

Mr. Karunesh Kaushal, A.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

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.0114 dated 14.7.2021 under sections 363, 366-A IPC (later on added section 376 IPC as well as section 3/4 of POCSO Act), registered at Police Station, Kartarpur, district Jalandhar Rural.

As per factual matrix, the FIR in question was lodged by Gurdial Singh i.e. father of the prosecutrix, wherein it was alleged that his daughter was 15 years 3 months old and was studying in 11th class. On 12.7.2021 when he woke up, he found his daughter missing from the bed. It was suspected that his daughter had been allured by Ravi @ Gulab i.e. the present petitioner on the pretext of marriage. It was alleged that Ravi @ Gulab was driver of the school bus. A request was made to take legal action against the culprit.

The investigation commenced. The petitioner and the prosecutrix were recovered on 26.7.2021 i.e. after a period of 14 days.

Statement of the prosecutrix was recorded under section 164 Cr.P.C and she was medically examined. Petitioner was arrested on the same day i.e. on 26.7.2021. He approached the court of Addl. Sessions Judge-cum Fast Track Special Court (POCSO), Jalandhar for grant of bail, however, after hearing the parties, the same was declined vide order dated 8.9.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. He submits that evidently prosecutrix went missing from her house on 12.7.2021 and thereafter was recovered on 26.7.2021 which shows that both petitioner and prosecutrix lived together for about 14 days. He submits that on 19.7.2021 both of them had performed marriage and had preferred a petition i.e. CRWP-6754-2021 seeking protection of their life and liberty. The same was disposed of by this court vide order dated 22.7.2021. He submits that prosecutrix had specifically deposed in her statement recorded under section 164 Cr.P.C that she left her home of her own will. In her supplementary statement she stated that she established physical relations with the petitioner with her own free will. Counsel submits that once prosecutrix went with her parents, she was pressurized by her parents to depose against the petitioner and hence she took a contrary stand under the pressure of her parents. He submits that material witnesses already stand examined by the learned Trial Court and hence the possibility of the petitioner influencing them survives no more. He submits that petitioner has no criminal antecedents and he deserves to be granted the benefit of

bail.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner. He submits that even if it is assumed that the prosecutrix was a consenting party, still her consent has no legal sanctity as she was a minor. He submits that prosecutrix and her parents have been examined by the Trial Court and they have duly supported the case of prosecution, however, he candidly acknowledges that in her statement recorded under section 164 Cr.P.C prosecutrix had deposed that she left her home of her own free will. It is submitted that out of total 12 prosecution witnesses, 4 including the prosecutrix have been examined. He further submits that as per information provided to him petitioner is not involved in any other case.

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

Admittedly, petitioner is behind bars since 26.7.2021. Evidently prosecutrix went missing from her house on 12.7.2021 and thereafter was recovered on 26.7.2021. During this period she performed marriage with the petitioner on 19.7.2021. They approached this court by way of filing a petition seeking protection of their life and liberty. The same was disposed of vide order dated 22.7.2021. Both petitioner and prosecutrix lived together for about 14 days in public places and travelled by public transport. In her statement recorded under section 164 Cr.P.C prosecutrix had deposed that she left her home of her own free will. In her supplementary statement she deposed that she had established physical relations with the petitioner voluntarily. The material witnesses including

the prosecutrix and her father already stand examined before the learned Trial Court and hence the possibility of the petitioner influencing them is no more. There is nothing on record to show that petitioner has any criminal antecedents. 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 the 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

07.09.2022

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