

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

222

CRM-M-1774 of 2022
Date of decision:08.08.2022

Jasbir Chand @ Bunty

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sohrab Dhanda, Advocate for
Mr. A.S. Manaise, Advocate
for the petitioner.

Mr. A.S. Gill, Sr. DAG, Punjab.

SUVIR SEHGAL J. (ORAL)

This is the first petition filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No.73 dated 26.10.2019 registered under Sections 363, 366 and 376 of IPC, 1860, and Section 04 of the Protection of Children from Sexual Offences Act, 2012, at Police Station Sadar Pathankot, District Pathankot, Annexure P-1.

Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of father of a 14 years, 09 months old prosecutrix on the allegation that she went missing from her paternal home on the night intervening 25/26.10.2019. Complainant suspects that Bunty (present petitioner) has enticed her on the pretext of marriage.

By referring to the testimony of the complainant (PW-2) as well as the victim (PW-3), which have been appended with the petition as Annexures P-3 and P-2, respectively, counsel for the petitioner has contended that both the material prosecution witnesses have not supported the case of the prosecution. Rather he submits that the prosecutrix in her testimony has stated that she had gone to Mata Vaishno Devi and she has given a clean chit to the petitioner. Counsel submits that the petitioner is in custody since 02.11.2019 and deserves to be enlarged on bail as the star witnesses of the prosecution have been examined.

Per Contra, State counsel, upon instructions from ASI Rattan Lal, has opposed the petition and has submitted that the prosecutrix was a minor on the date of allurement. He submits that she has supported the allegation in her statement under Section 164 of Cr.P.C. and even as per the medical report, the possibility of sexual assault cannot be ruled out. As per his instructions, he submits that 05 out of 17 prosecution witnesses, have been examined.

Having heard counsel for the parties, this Court is *prima facie* of the view that the culpability of the petitioner in the offence would remain a subject matter of debate before the trial court. Petitioner, who is in custody for the last more than 02 years and 09 months would be entitled to be released on bail as crucial witnesses of the prosecution have been examined and 11 more witnesses are yet to step into the witness-box.

Without adverting to the merits or de-merits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be enlarged 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.

08.08.2022

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(SUVIR SEHGAL)

JUDGE

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