

**213 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-3017-2021

Date of decision : 14.01.2022

Sunny Kumar Gupta @ Sunny @ Ranjit Kumar Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Amandeep Chhabra, Advocate
for the petitioner.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.116 dated 13.06.2019, under Sections 363, 366-A IPC (Section 376 IPC and Section 4 of POCSO Act, 2012 added later on) registered at Police Station Dehlon, District Ludhiana.

As per the factual matrix of the case, the FIR is registered by mother of the victim, wherein she has stated that she has three children and her daughter, whose date of birth is 15.09.2002 is studying in +2 class at Teja Singh Sutantar Memorial Senior Secondary School near Quality Chowk Shimlapuri, Ludhiana. On 10.06.2019 at about 06:30 PM, her daughter left home without asking and she is not traceable. After enquiry, it

is found that her daughter was enticed away on the pretext of the marriage by Sunny son of unknown. It is requested to take the legal action against the culprit and to search her daughter.

The petitioner was arrested on 13.06.2019. He approached the learned Additional Sessions Judge (Fast Track Court), Ludhiana for the grant of bail under Section 439 Cr.P.C. who after hearing both learned counsel for the parties, declined the same vide order dated 07.09.2020. Aggrieved by the same, the petitioner has approached this Court by filing the present petition.

It has been contended by learned counsel for the petitioner that the petitioner and the victim were in love with each other. He has submitted that on 10.06.2019, both of them went together with the consent of the victim and they approached the Hon'ble Allahabad High Court for seeking protection on 24.06.2019. The copy of the petition has been placed on record as Annexure P-2. He submits that though, same was declined as the petitioners were less than 18 years of age. He submits that the petitioner has been falsely implicated at the behest of the parents of the victim. He submits that the false implication of the petitioner is writ large from the very fact that the complainant i.e. the mother of the victim, who is author of the FIR, has been examined as PW-3. She was recalled for cross-examination wherein, she has deposed before the trial Court that accused Sunny Kumar Gupta @ Sunny @ Ranjit Kumar never committed any forcible act or offence with her daughter and she never made any statement against him before the police. Learned Public Prosecutor made request to re-examine the witness on material ambiguity. He further submits that the victim has

also been examined. She was also recalled for cross-examination and she also submitted before the trial Court that petitioner-Sunny Kumar Gupta @ Sunny @ Ranjit Kumar never committed any forcible act or any offence and she never made any statement against the petitioner. He submits that the petitioner is behind the bars since 13.06.2019 and the material witnesses already stand examined and also that there is no other case of similar nature pending against the petitioner. In view of the same, further incarceration of the petitioner is unwarranted as there cannot be any apprehension projected by the prosecution for influencing the trial by the petitioner.

Learned State counsel has vehemently opposes the submissions made by learned counsel for the petitioner. He submits that the victim is a minor and there are categorical allegations of the offence as alleged against the petitioner. However, he candidly submits that both the complainant and the victim were recalled for cross-examination and they made material ambiguities during their re-examination. He has submitted that out of 16 prosecution witnesses, complainant, prosecutrix and one another witness already stand examined and two given up. He submits that the custody certificate showing the custody of the petitioner begins from 13th July, 2019 and his actual sentence upto 13th January, 2022 is 2 years 6 months.

I have heard learned counsel for the parties and perused the records.

Petitioner is behind the bars since 13.06.2019. The veracity of the allegations would be examined by the trial Court only after appreciation of the evidence produced before it. However, the material witnesses stand examined. In the overall facts and circumstances of the case, it is apparent

that the trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time. Keeping in view the abovesaid facts, this Court finds that learned counsel for the petitioner has succeeded in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

14.01.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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