

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

CRM-M-4075-2022
Date of Decision: 4.2.2022

Ashish

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Parveen Kaushik, Advocate, for the petitioner.
Mr. Vishal Kashyap, Deputy Advocate General, Haryana.

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 the grant of regular bail to the petitioner in a case FIR No.155 dated 4.6.2021, registered under Sections 376(3), 366-A, 366, 363, 323, 506 IPC and Section 4 of Protection of Children from Sexual Offences Act, 2012, at Police Station Sahlawas, District Jhajjar.

As per factual matrix of the case, the FIR in question was lodged by Hari Om son of Liluram resident of village Akehadi Madanpur, District Jhajjar. It was alleged that he is father of two daughters and his younger daughter is 15 years of age, who is studying in 10th standard. Her date of birth is 6.6.2006. On 4.6.2021, when he saw at about 6:00 a.m., he found that his younger daughter is not present at home. He searched for her, but failed. It was alleged that he is confident that his daughter has been enticed away by the petitioner Ashish son of Ramphal resident of Rashiwas, District Charkhi Dadri on the pretext of marriage. It was further alleged that

Ashish is living with his Bua Saroj in the village from the last 1½ months. It was prayed that his daughter be searched and legal action be taken against Ashish. On the basis of these allegations, the present FIR was lodged and investigation commenced. On 5.6.2021, his daughter was recovered by the Police and the petitioner was arrested on 8.6.2021. He approached the learned Additional Sessions Judge, Jhajjar for grant of bail, who after hearing the parties, declined the same vide its order dated 7.1.2022. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition for grant of regular bail.

Learned counsel for the petitioner has contended that the petitioner is a young boy of 21 years of age and he has been falsely implicated in the present case. He has submitted that both the victim and the petitioner were in love affair with each other and there was no coercion at the behest of the petitioner in enticing away her. He submits that the petitioner has been implicated in this case at the behest of the parents of the victim, who opposed their relationship. He submits that there is no dispute regarding the age of the victim, however, in the facts and circumstances of the case, it is apparent that the relationship between the petitioner and the victim was totally consensual and hence, the petitioner who is at the threshold of his life, has been falsely implicated in this case. To support his arguments, he has addressed that the material prosecution witnesses i.e. the parents of the victim and the victim herself have been examined by the trial Court and the victim has not supported the case of the prosecution. He has drawn the attention of this Court to the deposition of the victim before the trial Court, who has been examined as PW-1. He has submitted that in the examination-in-chief, the prosecutrix deposed that she already knew Ashish

and they had an affair with each other. She further deposed that they went to Gurugram on 4.6.2021 and they had physical relationship twice. During the cross-examination, she deposed that she went with the accused Ashish to Gurugram of her own sweet will, whatever happened at Gurugram that was with her consent and she was never forced by the petitioner Ashish for sexual relationship. She further deposed that she did not want to take any legal action against the petitioner Ashish. Learned counsel for the petitioner submits that as the material prosecution witnesses have already been examined by the trial Court, there cannot be any apprehension of tampering with the witnesses and hence, the petitioner be enlarged on bail.

Learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that the parents of the victim have already been examined and they have duly supported the case of the prosecution. He submits that even if the victim had consented for the alleged offence, her consent has no legal sanctity. He further submits that out of total 24 prosecution witnesses, 5 witnesses have been examined including the parents of the victim and the victim.

Heard.

The petitioner is a young boy of 21 years of age and is behind bars since 8.6.2021. Out of total 24 prosecution witnesses, the material witnesses have already been examined. The parents of the victim have supported the case of the prosecution, however, the victim deposed about her relationship with the petitioner as consensual. She has not been even declared hostile by the prosecution. The veracity of the allegations and counter-allegations would be evaluated by the trial Court only after conclusion of the trial. The trial of the case will take sufficiently long time

and no useful purpose will be served by keeping the petitioner in custody for such a long time. In the overall facts and circumstances of the case, I am of the opinion that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail 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.

4.2.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

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