

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211

CRM-M-5072 of 2021
Date of decision:11.07.2022

Jai Anand @ Anand

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

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

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Code”) seeking grant of regular bail to the petitioner in case FIR No.305 dated 26.09.2020 registered under Sections 363, 366-A, 380, 120-B of Indian Penal Code, 1860, however, Sections 376, 457, 201 IPC and Sections 4 & 6 of Protection of Children from Sexual Offences Act, 2012 (for short “the POCSO Act”), were added later on, at Police Station Basti Bawa Khel, District Jalandhar.

Case of the prosecution is that FIR has been registered on the statement of father of a 17 year old girl (for short “the prosecutrix”) on the allegation that his daughter has been enticed by Pasto Manual Masih on the pretext of marriage and that he is helped in this by Anand (present

petitioner), Shubham, Shivam as well as his sisters, Neelam, Pinki and Rajni. Some articles are missing from home, which have been taken by the prosecutrix as per the allegation in the FIR.

By referring to the statement of the prosecutrix recorded under Section 164 of the Code as well as her testimony, counsel for the petitioner urges that there is no allegation of sexual assault against the petitioner. He submits that the allegation against the petitioner is of supplying some intoxicants to the prosecutrix, which she used to sedate her family members and sale of gold articles, which the prosecutrix had stolen from her paternal home. Counsel submits that trial is not progressing as the prosecution had filed an application under Section 319 of the Code for summoning some additional accused, though the application has now been dismissed. He submits that the petitioner, who is in custody since 09.10.2020, would be entitled to be released on bail as he is no longer required for custodial interrogation.

Per contra, State counsel, upon instructions from ASI Gurmail Singh, has opposed the petition on the ground that nature of allegations levelled against the petitioner are serious and grave. As per his instructions, no recovery has been effected from the petitioner. He has filed custody certificate dated 09.07.2022, which is taken on record. He could not dispute that the petitioner does not have any criminal past. According to his instructions, except for the complainant and prosecutrix, who have been examined-in-chief, no other witness has been examined and there are a total of 20 prosecution witnesses.

Having considered the submissions made by counsel for the parties, period of incarceration of the petitioner, as well as role ascribed to him, this Court is *prima facie* of the view that complicity of the petitioner in the crime would remain subject matter of debate before the Trial Court. The petitioner, who is young boy of 20 years of age with spotless past and is in custody for the last more than 01 year and 09 months, would be entitled to be released on bail as the trial is likely to take time to conclude.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, the petition is allowed and 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.

July 11, 2022

savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes