

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

210

CRM-M-5163 of 2022
Date of decision:16.09.2022

Lal Chand @ Babbu

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Avtar Singh, Advocate
for the petitioner.

Mr. P.S.Grewal, DAG, Punjab.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in case FIR No.70 dated 16.07.2020 registered under Sections 363, 366-A, 376 of Indian Penal Code, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012 at Police Station Narot Jaimal Singh, District Pathankot.

Criminal law has been set in motion on the basis of complaint of father of school going girl (for short “the prosecutrix”), whose date of birth is 15.02.2005, on the allegation that she is missing from her home since 15.07.2020. Complainant suspects that Lal Chand @ Babbu (present petitioner) has allured her on the promise of marriage.

Counsel for the petitioner urges that although in the narration of history of the incident given to examining doctor as recorded in the MLR (Annexure P-1), the prosecutrix has alleged that petitioner had physical

relations with her, but in her testimony, Annexure P-2, when she appeared before the Trial Court as PW2, she has stated that she has not been sexually assaulted. He submits that in her examination-in-chief as well as in her cross-examination, the prosecutrix has claimed that she was a major on the day she was allegedly enticed. Counsel asserts that petitioner, who is in custody since 20.07.2020 deserves to be enlarged on bail as he enjoys a clean past and the crucial witnesses have been examined.

Per contra, upon instructions from ASI Mohan Singh, State counsel has opposed the petition and has submitted that as per the school certificate, the prosecutrix is a minor. Still further, he submits that name of the petitioner figures in the FIR and considering the nature of allegations levelled against him, he does not deserve the concession of bail. As per instructions of State counsel, 05 out of total 18 prosecution witnesses have been examined.

Having considered the submissions made by counsel for the parties, but without adverting to the merits or demerits of the arguments addressed, this Court is *prima facie* of the view that age of the prosecutrix and role allegedly ascribed to the petitioner would remain subject matter of debate before the Trial Court. Considering the fact that petitioner, who is in incarceration for the last more than 25 months and the trial is not likely to conclude in the near future, he would be entitled to be released on bail.

Petition is allowed and 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.

September 16, 2022

savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>