

209

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5122-2022(O&M)

Date of Decision: September 29, 2022

Lovepreet Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Jaideep Verma, Advocate
for the petitioner.

Mr.Sandeep Kumar, DAG, Punjab.

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RAJESH BHARDWAJ, J.(ORAL)

CRM-26828-2022

For the reasons mentioned in the application, the same is allowed. Annexures P-3 and P-4, i.e. statements of prosecutrix-PW1 and Baljeet Singh- PW2 are taken on record.

Main case

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.116, dated 08.11.2021, Annexure P-1, registered under Sections 363, 366-A IPC, at Police Station Hathur, District Ludhiana Rural, Panjab.

As per facts of the case, the present FIR was lodged by father of the victim, namely, Baljit Singh. The sum and substance of the allegations is that his elder daughter, i.e., the victim (name concealed) is about 16 years of age. On 07.11.2021 at about 04.00 p.m. she had gone out of home to purchase some notebook from the shop, however, she did not return back.

They tried to trace her, however failed to trace her. It was alleged that some unknown person had taken away his daughter and prayer made to take the legal action against them. On the basis of the complaint, FIR was lodged and investigation commenced. The victim was recovered on the next date, i.e. 08.11.2021. Her statement under Section 164 Cr.P.C. was recorded and the Investigating Agency tried to medically examine the prosecutrix, however, she did not give her consent for the same and hence, her medical examination could not be conducted. On the commencement of the investigation, the petitioner was arrested on 08.11.2021. He approached the Court of learned Sessions Judge, Ludhiana, praying for grant of bail, who after hearing the parties, declined the same vide its order dated 14.01.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

Counsel for the petitioner has vehemently submitted that petitioner is a young boy of 20 years and he has been falsely implicated in this case. He has submitted that the prosecutrix has left the home of her own and she was recovered on the very next date. He has submitted that the statement of the prosecutrix was recorded under Section 164 Cr.P.C. wherein she has specifically deposed that she went with the petitioner of her own and there was no coercion whatsoever on the part of the petitioner in putting any pressure on her. He further submits that the prosecutrix refused to go for medical examination and thus, it is apparent that there are no allegations pertaining to sexual assault by the petitioner on the prosecutrix. He submits that from the facts and circumstances, it is apparent that both the petitioner and the prosecutrix were in consensual relationship, however, the same was not acceptable to the family members of the prosecutrix and

hence, he was falsely implicated in this case. To buttress his argument, he has submitted that the learned trial Court has examined the complainant as well as the prosecutrix. He fairly submits that though the complainant has supported the case of the prosecution, however, the prosecutrix specifically deposed during her cross-examination before the trial Court that she left the home of her own and the petitioner had never pressurised her for the same. She also deposed that they wanted to solemnise the marriage with each other. He submits that the petitioner has no criminal antecedents and in the facts and circumstances he deserves to be granted bail.

Learned State counsel, however, has opposed the submissions made by counsel for the petitioner. He has submitted that even if the prosecutrix is a consenting party, however the same has no legal sanctity as she is a minor. He fairly submits that prosecutrix did not support the case of the prosecution in her statement recorded under Section 164 Cr.P.C. as well as during her cross-examination before the Court. He further submits that prosecutrix had refused to give her consent and hence, she could not be medically examined. He has submitted that out of 13 prosecution witnesses, 4 already stands examined including the complainant and the prosecutrix and though the complainant has supported the case of the prosecution but the prosecutrix did not support during her cross-examination. He has submitted that as per instructions received from ASI Rachpal Singh, the petitioner has no criminal antecedent.

Heard.

Evidently, the petitioner is 20 years of age and both the petitioner and the prosecutrix were recovered on 08.11.2021. There is nothing on record to show that the petitioner has any criminal antecedent.

The prosecutrix has been examined. Statement of the prosecutrix was recorded under Section 164 Cr.P.C. and she was examined by the trial Court also. She has deposed that she left the home of her own and there was no coercion on the part of the petitioner. During their stay together, both the petitioner and the prosecutrix were staying in public places and travelling by public conveyances. There is nothing on record to show that there was any resistance whatsoever. The veracity of the allegations would be assessed only after culminating of the trial. 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 hereinabove shall be treated as an expression of opinion on the merits of the case.

September 29, 2022
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(RAJESH BHARDWAJ)
JUDGE

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |