

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

CRM-M-6761-2022

Date of Decision: 20.7.2022

Sandeep Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ritesh Aggarwal, Advocate, for the petitioner.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.240 dated 31.8.2020, registered under Section 346 IPC (Sections 376 and 506 IPC added lateron), at Police Station Sadar, Samana, Patiala.

As per factual matrix of the case, the present complaint was filed by Baljit Singh son of Kashmir Singh. It was alleged that his eldest daughter i.e. the victim (name concealed) was married to Sukhwinder Singh. She had come to maternal grand home with her child. On the intervening night of 26/27.8.2020, his daughter had gone without informing anything. They searched her, however, failed in tracing her. Thereafter, they came to know that his victim daughter had been kept by some unknown person. The complaint was filed to take legal action against the accused person. On the basis of the complaint, the FIR in question was lodged and the investigation commenced. On the commencement of the investigation, the victim was recovered on 9.9.2020. Thereafter, she was produced before the learned Magistrate and her statement under Section 164 Cr.P.C. was recorded on

14.9.2020. The petitioner was arrested on 10.9.2020. The petitioner approached the learned Additional Sessions Judge (Exclusive Court for Heinous Crimes Against Women), Patiala for grant of bail, who after hearing the parties, declined the same vide its order dated 12.1.2021. 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 vehemently contends that prosecution of the petitioner is nothing, but an abuse of the process of the Court. He submits that the petitioner is 27 years of age, whereas, the prosecutrix is 22 years of age and mother of one child. He submits that both are major. He submits that from the facts of the case, it is apparent that both the petitioner and the prosecutrix eloped together in the intervening night of 26/27.8.2020. They remain together for about 14 days and the prosecutrix was recovered on 9.9.2020. He submits that from the statement of the prosecutrix herself, it is apparent that they left on motorcycle and thereafter remained at different public places throughout the period. He submits that after the recovery of the prosecutrix, she was pressurized by her parents and under pressure she has deposed against the petitioner. He submits that at the most relationship between the petitioner and the prosecutrix was consensual and in any case, the relationship of both of them being consensual, offence under Section 376 IPC is not attracted. He further submits that the petitioner has no criminal antecedents and now the prosecutrix has also been examined by the trial Court. He submits that though the prosecutrix has deposed against the petitioner, however, she has specifically deposed that she had relationship with the petitioner and she went with the petitioner in

the intervening night of 26/27.8.2020 and thereafter, they stayed at different public places. He submits that the petitioner is behind bars from the last almost two years. He has submitted that in view of the facts and circumstances of the case, the petitioner deserves to be granted bail.

Heard.

Learned State counsel however submits that the prosecutrix has deposed against the petitioner while recording statement under Section 164 Cr.P.C. and thereafter, while she was examined in the Court as PW-1. He candidly submits that both the petitioner and the prosecutrix are major. He further submits that as per the record, there is no other case pending against the petitioner.

Heard.

Admittedly, the petitioner and the prosecutrix both are major. After having been eloped, they remained together for about 14 days at different public places. The prosecutrix is not only married but mother of one child as well. There is nothing on record showing that the petitioner has any criminal antecedents. On the other hand, as per the submissions made by learned counsel, the prosecutrix already stands examined. This Court finds that there cannot be any apprehension on the part of the petitioner for pressurizing the prosecutrix. The veracity of the allegations would be evaluated by the trial Court only after conclusion 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. The trial is likely to take time in its conclusion. 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.

20.7.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

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