

CRM-M-8026-2022 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(221)

CRM-M-8026-2022 (O&M).
Date of Decision:-02.03.2022.

Akash

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Jagmohan Ghumman, Advocate for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.63 dated 27.03.2021 under Sections 346, 376, 406 of IPC (Section 120-B added later on), registered at Police Station City Nuh, District Nuh.

As per the factual matrix of the case, the present FIR was lodged by grand-father-in-law of the prosecutrix, namely, Ramesh Babu, S/o Late Thawaria. The sum and substance of the allegations in the FIR is that the grandson of the complainant, namely, Shivkumar was married with the prosecutrix-Pinky, who is 22 years of age. They were blessed with a daughter who is 02 years of age. It was alleged that on 26.03.2021, when his grandson Shivkumar was not at home, he found that neither his daughter-in-law i.e. prosecutrix nor her minor daughter were at home. He enquired about the same from the neighborhood but failed to get any clue.

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His grandson, Shivkumar i.e., husband of the prosecutrix came back at about 12.30 p.m. and he apprised him about the missing of both. They checked their house and found that the valuables as well as cash were missing. On checking of the house, they found that the prosecutrix had taken Rs.10,000/- in cash and 3 tolas of gold necklace 1 ½, tola gold earrings with 02 tola nose pin with chain and 02 tola tika, 2 gold rings of 1-1 tola each and 2 ½ tola gold chain, 3 tola gold bangles, gold rings of 1 ½ tola, total 18 tola of gold jewellery, silver ornaments, 250 gms. pajeb, 250 gms. silver Tagdi, 250 gms. Hathphul to be worn in the hands, 1.25 gms. bichhu, 4 pieces of silver bangles of 250 gms. and 250 gms. chhan. It was suspected that the prosecutrix had taken away all these items from home and a request was made to search both the prosecutrix and the minor. Thereafter, the investigating agency swung into action. The prosecutrix along with her daughter were recovered on 05.04.2021 and on her recovery, statement under Section 164 Cr.P.C. was recorded on 06.04.2021 and statement under Section 161 Cr.P.C. was recorded on 07.04.2021. The petitioner was arrested on 08.11.2021. He approached the learned Additional Sessions Judge/Duty Judge at Mewat, praying for grant of bail, who after hearing the counsel for the parties, declined the same vide his order dated 18.01.2022. Aggrieved by the same, the petitioner approached this Court by way of filing of the present petition.

Learned counsel for the petitioner vehemently contends that the petitioner is young unmarried boy and has been falsely implicated in this FIR. He submits that from the facts of the case itself, it is apparent that the both the petitioner and the prosecutrix are of the age of majority. He submits that the petitioner is unmarried boy, however, the prosecutrix is

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married and is the mother of 02 years old child as well. He has submitted that the prosecutrix herself left the matrimonial home along with the minor on 26.03.2021 and was recovered after about 10 days i.e. on 05.04.2021. He has drawn the attention of this Court to the statement of the prosecutrix recorded under Section 161 Cr.P.C., wherein, she deposed that she was in relationship with the petitioner from last 04 years i.e., before her marriage with the grandson of complainant. She has further deposed that she was in love with the petitioner and she ran away with him twice on the earlier occasions as well. However, she manipulated the allegations that the petitioner started blackmailing her and under threat, she left the matrimonial home on 26.03.2021 along with the cash and jewellery on motorcycle with the petitioner. He further submits that even in the statement recorded under Section 164 Cr.P.C., after due deliberations, she has concocted a false and frivolous story of having been compelled by the petitioner and under threat, she was raped. Learned counsel for the petitioner submits that in the facts and circumstances when both the petitioner and the prosecutrix are of the age of majority, the offence under Section 376 IPC is not attracted. However, allegations have been deliberately made under the pressure of the family members. He submits that the investigation is complete and the petitioner deserves to be enlarged on bail. He further submits that the petitioner has never been involved in any other case of like nature.

Learned State counsel, on the other hand, has opposed the present petition. He submits that in the statements under Sections 161 and 164 Cr.P.C., the prosecutrix has levelled specific allegations against the petitioner. He submits that the prosecutrix has deposed that she was

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blackmailed by the petitioner to elope with him. He submits that the investigation is complete and the challan has already been presented before the trial Court.

I have heard learned counsel for the parties and perused the records.

Evidently, both the petitioner and prosecutrix are of the age of majority. The petitioner is unmarried whereas, the prosecutrix is mother of one child. She escaped from the matrimonial home on 26.03.2021 and was recovered on 05.04.2021. As per her own allegations, she after having been eloped from the matrimonial home, remained with the petitioner at the house of one Manoj i.e. friend of the petitioner. During investigation, the allegations against Manoj were not substantiated and he was declared innocent by the Investigating Agency. The evaluation of the veracity of the allegations are totally the subject matter of the outcome of the trial.

Keeping in view the abovesaid facts, this Court finds that learned counsel for the petitioner has succeeded in making out a case for grant of regular bail.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds 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.

(RAJESH BHARDWAJ)
JUDGE

March 02, 2022.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No