

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

CRM-M-7525-2022

Date of decision : 31.08.2022

Anuj Kumar

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Jitender Singh Dadwal, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case bearing FIR No.0220 dated 22.12.2018, under Sections 363, 366-A of IPC (Sections 376, 120-B of IPC and Section 4 of the Protection of Children from Sexual Offence Act, 2012 added later on), registered at Police Station Division No.2, Ludhiana.

As per the facts of the case, the present FIR was lodged by Sarabjit Singh son of Sucha Singh. It was alleged that he has three children i.e. two sons and one daughter (victim) who was of the age of about 17 years. On 21.12.2018, she went to the school, however, did not return. It was suspected that some unidentified person has enticed her away on the pretext of marriage. The complaint was made to register the FIR and to take the legal action against the culprits. On registration of the FIR, the investigation commenced and the prosecutrix/victim was recovered on 01.01.2019 from the custody of the petitioner. She was produced before the Judicial Magistrate for recording her statement under Section 164 Cr.P.C. She was medically examined. The petitioner was

arrested on 01.01.2019. He approached the Court of learned Additional Sessions Judge, Ludhiana praying for grant of bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge declined the same vide his order dated 2nd March, 2021. Aggrieved by the same, the petitioner is before this Court praying for grant of regular bail.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case. He has further submitted that on her recovery from the custody of the petitioner, the prosecutrix was produced for the medical examination where she disclosed her age as 19 years. He submits that the FIR has been lodged by father of the prosecutrix as he was opposing the relationship of the petitioner and the prosecutrix. He has submitted that the prosecutrix has been deliberately shown to be less than 18 years of age to implicate the petitioner in a non-cognizable heinous offence. He submits that the prosecutrix went missing from home at 21.12.2018 and she was recovered on 01.01.2019 i.e. after about 11 days which would show that the relationship between the petitioner and the prosecutrix was consensual and throughout this period, they remained at several public places and travelled by public conveyance. There is nothing on record to show any resistance from the prosecutrix side or any coercion used by the petitioner against the prosecutrix. He submits that once the prosecutrix went in custody of her parents, she was compelled to falsely implicate the petitioner in this case. He has submitted that the petitioner is behind bars from last more than three years and the prosecutrix and her father, who is the complainant, have also been examined. He has submitted that as the material witnesses already stand examined, the petitioner is not in a

position to influence the prosecution witnesses. He has further submitted that the petitioner has no criminal antecedents. He has submitted that during the long custody of more than three years of petitioner, the prosecution could examine only three witnesses till date which has defeated his right of speedy trial. Learned counsel has submitted that in the facts and circumstances of the case, the petitioner deserves to be granted regular bail.

Learned State counsel, on the other hand, has opposed the submissions made by counsel for the petitioner. He has submitted that the prosecutrix is minor and even if she has consented, the same has no legal sanctity. He submits that the prosecutrix has supported the case of the prosecution while recording her statement under Section 164 Cr.P.C. and while examining as a prosecution witness. He has also submitted that the case of the prosecution is also medically corroborated. He submits that as per information, the petitioner is not involved in any other case. He has submitted that out of 19 prosecution witnesses, 03 witnesses already stand examined which includes the complainant and the prosecutrix.

I have heard counsel for the parties and perused the record.

As per the facts of the case, the prosecutrix went missing on 21.12.2018 and thereafter, she was recovered on 01.01.2019 i.e. after about 11 days. As per the submissions made, there is nothing on record to show that the petitioner has any criminal antecedents. Out of 19 prosecution witnesses, only 03 witnesses have been examined till date by the prosecution. The petitioner has already suffered incarceration of more than three years. As the material witnesses already stand examined, the possibility of the petitioner influencing the prosecutrix or the complainant

also does not survive.

The trial would take sufficiently long time in its conclusion. The veracity of the allegations would be assessed only after the conclusion of the evidence to be produced by the respective parties before the trial Court. However, keeping in view the custody of the petitioner, this Court is of the opinion that learned counsel for the petitioner succeeds 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.

31.08.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No