

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

(110+221)

CRM-13053-2022 and
CRM-13057-2022 in/and
CRM-M-8631-2022
Date of Decision:-21.04.2022.

Aman

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Baljeet Nain, Advocate for the petitioner.

Mr. B.S. Virk, DAG, Punjab.

Mr. Rajesh Duhan, Advocate for the complainant.

RAJESH BHARDWAJ, J. (Oral)

CRM-13053-2022

This is an application for preponement of the main case.

Since the main case is already fixed for today i.e. 21.04.2022, the
present application has become infructuous.

Dismissed as infructuous.

CRM-13057-2022

Application is allowed as prayed for.

Annexures P-4 to P-7 are taken on record.

CRM-M-8631-2022

Prayer in this petition is for grant of regular bail to the
petitioner in case FIR No.289 dated 07.10.2021 under Sections 363, 366 of

CRM-13053-2022 and
CRM-13057-2022 in/and
CRM-M-8631-2022

IPC and Section 8 of POCSO Act, 2012, registered at Police Station City Narwana, District Jind.

As per the factual matrix of the case, the present FIR was lodged by complainant-Kaptan Singh, son of Sh. Ram Chander. The sum and substance of the allegations in the FIR is that the victim is aged about 16 years. On 07.10.2021, at about 4.00 a.m. she went from home but did not return back. When the complainant woke up at 6.00 a.m., he found his daughter/victim was missing. He searched for his daughter but to no avail. Despite best efforts, they failed to search her. On 29.09.2021, they received a mobile phone from his daughter who had told that the said mobile phone was of Aman-petitioner, whose mobile number was 90535-77238. The FIR was registered to take legal action against the culprit. The investigation commenced and the petitioner was arrested on 15.10.2021. The victim was recovered on 15.10.2021. She was produced before the Judicial Magistrate Ist Class, Narwana on 15.10.2021 for recording her statement under Section 164 Cr.P.C. wherein she deposed that her family members wanted to kill her and, thus, she had gone along with the petitioner with her own wish. She wanted to marry him but her family members wanted to marry her against her wishes. She did not want to go with her parents and want to go to Nari Niketan.

The petitioner was arrested on 15.10.2021. He approached the Court of learned Additional Sessions Judge, Fast Track, Special Court, POCSO, Jind for grant of bail. The learned Additional Sessions Judge, after hearing the counsel for the parties, declined the same vide order dated 15.02.2022. Aggrieved by the same, the petitioner approached this Court

CRM-13053-2022 and
CRM-13057-2022 in/and
CRM-M-8631-2022

for grant of regular bail by way of filing the present petition.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case. He submits that the prosecutrix though less than 18 years of age but she went from home as per her own wish as she was tortured by her family members. On her recovery on 15.10.2021, her statement was recorded under Section 164 Cr.P.C. wherein she deposed that the petitioner never compelled her to accompany her. As her family members wanted to marry her against her wishes, she left the home. She further deposed that she wanted to perform marriage with the petitioner. Learned counsel for the petitioner further submitted that false implication of the petitioner is further strengthened from the fact that the material witnesses i.e. the prosecutrix, examined as PW-1 and her father, examined as PW-2 and brother of the victim, examined as PW-7 but these witnesses have not supported the case of the prosecution and on the request of the Public Prosecutor, they have been declared hostile. He has placed on record the statements of the material witnesses. A bare reading of their statements would reveal that the victim deposed that she left her home alone and went to the house of her uncle in Gurugram. On 15.10.2021, she came back to her house in Narwana. She further deposed that she has seen the accused for the first time in the Court, through video conferencing and he never committed any wrong act with her. Similarly her mother and brother also deposed on the same lines and they were also declared hostile. Counsel for the petitioner submits that in view of the same, it apparent that incarceration of the petitioner is totally unwarranted and he deserves to be enlarged on bail.

CRM-13053-2022 and
CRM-13057-2022 in/and
CRM-M-8631-2022

Learned counsel for the complainant endorsed the submissions made by the learned counsel for the petitioner.

Learned State counsel, on instructions from SI Raj Kumar, has opposed the submissions made by the learned counsel for the petitioner. He submits that the victim is minor and her consent would be of no legal sanctity. There are specific allegations against the petitioner. However, he candidly acknowledges that material witnesses have not supported the case of the prosecution.

Heard.

The petitioner is 20 years of age and the prosecutrix is less than 18 years of age. After her recovery, statement of prosecutrix under Section 164 Cr.P.C. was recorded wherein she did not support the allegations made in the FIR lodged by her father. During the examination of the material witnesses before the trial Court, no one supported the case of the prosecution.

The veracity of the allegations would be finally assessed by the trial Court on conclusion of the trial and on the basis of evidence led by both the parties. This Court would refrain itself from commenting anything upon the merits of the case, however, confining to the prayer made by the learned counsel for the petitioner for grant of regular bail, this Court finds that the counsel for the petitioner succeeds in making out a case for grant of bail to the petitioner. The trial of the case is likely to take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time.

Accordingly, the present petition is allowed and the petitioner

CRM-13053-2022 and
CRM-13057-2022 in/and
CRM-M-8631-2022

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

April 21, 2022.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No