

221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10060-2021
Date of decision : 22.03.2022

Ravi

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Swati Verma, Advocate
for the petitioner.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.206 dated 26.10.2020, under Sections 363, 366-A, 376 of the Indian Penal Code, 1860 and Sections 4, 5, 10 of POCSO Act, 2012, registered at Police Station Jodhewal, Police Commissionerate Ludhiana.

As per the factual matrix of the case, the present FIR was lodged by father of the victim, namely, Raju, wherein, it was alleged that he is aged about 40 years and resident of House No.328, Street No.4, Mohalla Gurpreet Nagar near Baba Balak Nath Mandir Noorwala Road, Ludhiana and works as a tea vendor. It was alleged that he had three children and his younger daughter i.e. the victim aged about 15 years studying in 8th Class. On 24.10.2020 at about 05:00 PM, she went for tuition but did not return. Despite their best efforts, she could not be traced. It was suspected that some unknown person had allured her on pretext of marriage. The request was made to take legal action against the culprits. The investigation commenced and thereafter, the victim and the petitioner were recovered on 28.10.2020. The petitioner was arrested on 28.10.2020. The statement of the victim was recorded under Section 164

Cr.P.C. by the learned Judicial Magistrate Ist Class, Ludhiana on 30.10.2020 wherein she deposed that she left the house on 24.10.2020 at about 05:30 PM with her boyfriend namely, Ravi i.e. the petitioner. On 24.10.2020 she stayed with her boyfriend at the house of his friend. On the next morning, both of them went to the parents of petitioner where they performed the marriage ceremony at the residence of the petitioner. They stayed there for about three days and had physical relations as well. On 28.10.2020, they went to the house of Ravi's friend and on the next morning, they were caught by the police. Petitioner approached the Court of learned Additional Sessions Judge, Fast Track Special Court, Ludhiana praying for the grant of bail. After hearing counsel for the parties, learned Additional Sessions Judge, Fast Track Special Court, Ludhiana declined the same vide order dated 12.02.2021. Aggrieved by the same, the petitioner has approached this Court by way of the present petition for grant of regular bail.

It has been contended by counsel for the petitioner that the petitioner has been falsely implicated in this case. She has submitted that in the light of the facts and circumstances, the relationship between the petitioner and the prosecutrix is very well established and the same is without any coercion on the part of the petitioner. She also submitted that the petitioner has been roped in the present FIR on the pressure of the parents of prosecutrix who never accepted the relationship of the victim with the petitioner. She has submitted that the prosecutrix in her statement under Section 164 Cr.P.C. has specifically deposed that she went with the petitioner voluntarily and performed the marriage as well in the presence of the parents of the petitioner. She also acknowledges that the victim being less than 18 years of age, the petitioner has been booked in the present case. She submits that petitioner is behind the bars since 28.10.2020 and now the material witnesses also stood examined. Thus,

there cannot be any apprehension whatsoever to be alleged by the prosecution against the petitioner of tampering with the evidence which is going on. She also submits that the petitioner is a young boy of 21 years of age who is at the threshold of his life has never been involved in any other offence.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the victim is 15 years of age and even if there is any consent on the part of the victim that has no legal sanctity. He submits that in all, there are 21 prosecution witnesses, out of which, 07 witnesses including the material witnesses i.e. the author of the FIR and the victim also stood examined.

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

Petitioner is behind the bars since 28.10.2020. As per the facts of the case, the victim eloped from her home with petitioner on 24.10.2020 and thereafter, they performed marriage and were recovered after four days i.e. on 28.10.2020. The prosecutrix did not allege anything against the petitioner in her statement recorded under Section 164 Cr.P.C. However, during her examination before the trial Court, she has deposed against the petitioner. As submitted by learned State counsel, the material witnesses now already stand examined.

The trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time. The veracity of the allegations would be assessed by the trial Court on the basis of evidence to be led during the trial. The Court would refrain from commenting anything on the merits of the case at this stage. Confining to the prayer made for the grant of bail, this Court is convinced that the 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.

22.03.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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