

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

CRM-M-10492-2022
Date of Decision: 16.3.2022

Jabbar Singh alias Satta

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. J.S. Santwal, Advocate, for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, 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.31 dated 5.4.2021, registered under Sections 363, 366 IPC (later on Section 376 IPC and Section 6 POCSO Act, 2012 and Sections 3 and 4 of SC/ST Act added), at Police Station Shri Chamkaur Sahib, District Rupnagar.

As per factual matrix of the case, the FIR in question was lodged by Nirmal Singh, father of the victim. The sum and substance of the allegations in the FIR is that the victim was 16 years of age and studying in 10th standard. On 4.4.2021, at about 4:00 p.m., she went missing from the house. Despite their efforts, they failed to search her. It was suspected that the victim had been kidnapped by some unknown person by enticing her for the marriage. The FIR was lodged to search the victim and to take legal action against the culprits. After lodging of the FIR, investigation commenced. On 14.4.2021, supplementary statement of the complainant was recorded, wherein the name of the petitioner was mentioned.

Thereafter, the victim was recovered from a Park at Shahi Majra on 30.7.2021. The victim was taken by the Investigating Agency before the learned Magistrate and her statement under Section 164 Cr.P.C. was recorded on 31.7.2021. The petitioner was arrested on 30.7.2021. He approached the learned Additional Sessions Judge, Rupnagar for grant of bail, who after hearing the parties, declined the same vide its order dated 16.12.2021. 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 submits that the petitioner has been falsely implicated in the present case. He submits that the victim is 17 years of age and she went missing on 4.4.2021, whereas she was recovered after about 3 months on 30.7.2021. He has submitted that after due deliberation supplementary statement of the complainant was recorded wherein name of the petitioner was incorporated. He has submitted that the prosecutrix was produced before the learned Magistrate for recording statement under Section 164 Cr.P.C. on 31.7.2021 and she has not levelled any allegations against the petitioner in that statement. To buttress his arguments, he has placed on record the copy of the testimony of the prosecutrix as well as that of his father i.e. the complainant of the FIR, who are examined by the learned trial Court as PW-1 and PW-2, respectively. He submits that both these witnesses have not supported the case of the prosecution and thus, were declared hostile on the request of learned Public Prosecutor. He has drawn the attention of this Court to their deposition, wherein the victim had deposed that Jabbar Singh alias Satta (present petitioner) never kidnapped her. Neither he developed any physical

relationship with her nor extended any threat to kill her. She further deposed that she never disclosed any fact to the doctor at the time of medical examination and she duly identified the petitioner, who appeared through video conferencing. Similarly the complainant also deposed on the same line that the petitioner never kidnapped his daughter. Learned counsel for the petitioner submits that as the victim never supported the case of the prosecution in her statement under Section 164 Cr.P.C. nor before the Court, hence, further incarceration of the petitioner is totally unwarranted and hence, he deserves to be enlarged on bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner and submitted that the victim in the present case is less than 18 years and hence, even if there is consent on her part, the same has no legal sanctity. However, she candidly acknowledges that both the victim and the complainant have been duly examined by the trial Court and have not supported the case of the prosecution.

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

The petitioner is behind bars since 30.7.2021. The material witnesses i.e. the victim and the complainant i.e her father have not supported the case of the prosecution. In all there are 21 prosecution witnesses cited, out of which 3 witnesses have been examined so far. Though the veracity of the allegations would be evaluated by the trial Court only after conclusion of the trial, however, prima facie, it is apparent from the case so far that both the material witnesses have not supported the case of the prosecution and hence, without commenting on the merits of the case,

this Court finds that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. 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.

16.3.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

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