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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12623-2022

Date of Decision: March 30, 2022

Parminder @ Lavi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Manpreet Singh Longia, Advocate
for the petitioner.

Ms.Sakshi Bakshi, AAG, Punjab.

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RAJESH BHARDWAJ, J.(ORAL)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.171 dated 25.9.2021 under Sections 363, 366-A I.P.C. (Sections 376, 120-B IPC and Sections 3 and 4 of POCSO Act were added later on) registered at Police Station, Sadar Nakodar, District Jalandhar.

As per factual matrix, the FIR in question was lodged by Kuldeep Kumar, who is the father of the victim. It was alleged that his daughter aged about 17 years went with his wife Kulwinder Kaur to village Shankar for taking medicine. From the village Shankar a boy namely Lavi took his minor daughter after alluring her. They searched for her, however, failed to find her. A request was made to take action against the culprits. The investigation commenced and prosecutrix was recovered on 28.9.2021. The investigating agency produced her before the learned Magistrate on

petitioner was arrested in this case on 29.09.2021. He approached learned Addl. Sessions Judge, Fast Track Court, Jalandhar for grant of bail, however, after hearing the parties, the same was declined vide order dated 15.2.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present FIR. Learned counsel submits that after having been eloped on 21.9.2020 prosecutrix was recovered on 28.09.2021. Counsel submits that though petitioner was named in the FIR, however, his false implication is further strengthened from the fact that after conclusion of the investigation the Trial Court examined the material witnesses i.e. the prosecutrix and her father, who is the author of the FIR, as also her mother as PW-1, PW-2 and PW-3 respectively and all these material witnesses have not supported the case of the prosecution and they were declared hostile. Counsel has appended the copies of their testimonies which would show that all these witnesses have emphatically declined the involvement of the petitioner in the alleged offence in the present case. Even the medical examination of the victim does not corroborate the case of the prosecution. He further submits that co-accused of the petitioner, i.e. Vijay Kumar @ Abhi has already been granted the concession of bail by this Court vide order dated 17.03.2022 passed in CRM-M-10744-2022. Counsel submits that in the overall facts and circumstances of the case, petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel has submitted that the prosecutrix is a minor and there are allegations of involvement of the petitioner in conspiring with the co-accused Vijay Kumar @ Abhi, however,

she candidly submits that material witnesses have not supported the case of the prosecution. It is further submitted that out of 17 witnesses, five have been examined including the prosecutrix. She further submits that all the material witnesses have been declared hostile.

I have heard learned counsel for the parties at length and have gone through the record carefully.

Admittedly, petitioner is behind bars since 29.9.2021. Though he was named in the FIR, however, all the material witnesses i.e. prosecutrix and her parents have not supported the case of the prosecution. Medical examination of the prosecutrix also does not corroborate the version of the prosecution. The co-accused namely Vijay Kumar @ Abhi has already been granted concession of bail vide order dated 17.03.2022. Whether a case under Section 376 I.P.C is made out against the petitioner or not would be evaluated by the Trial Court after conclusion of the trial. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned.

Nothing stated herein shall be treated as an expression on the merits of the case.

March 30, 2022

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(RAJESH BHARDWAJ)

JUDGE

1. Whether speaking/reasoned ?

Yes/No

2. Whether reportable ?

Yes/No