IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(122+212-1)

CRM-M-14919-2021 (O&M)
Date of decision:- 20.07.2022

Shinda @ Minda @ Shinder and another **... Petitioners**

Versus

State of Punjab **... Respondent**

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Karamjit Singh Chahal, Advocate
for the applicants-petitioners.

Mr. Prabhjot Singh Walia, AAG, Punjab for State-respondent.

Ms. Amandeep Kaur, Advocate for the complainant.

...

SUVIR SEHGAL, J. (ORAL)

CRM-24639-2022

Application is allowed as prayed for.

Testimonies of PW-1 to PW-3 are taken on record as Annexures P-3 to P-5, respectively.

Main case

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in case FIR No. 61 dated 04.06.2020, registered for offences under Sections 363 and 366-A, of the Indian Penal Code, 1860, at Police Station Banur, District Patiala, Annexure P-1.

KAMAL SHARMA
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Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of father of a 16 year old girl (hereinafter referred to as "the prosecutrix") that on 03.06.2020 when he reached back home, he found that his daughter was missing. His younger brother found the prosecutrix at the house of Suresh Kumar and on spotting him, Rajinder @ Billu, Shinda @ Minda @ Shinder (petitioner No.1) and Sandeep Kumar @ Deep (petitioner No.2) fled from the spot. Request has been made for taking action against the three named accused for abducting his daughter.

By referring to the testimony of the prosecutrix, complainant as well as mother of the prosecutrix, Annexures P-3 to P-5, respectively, counsel for the petitioners submits that all the three material witnesses produced by the prosecution have not supported the allegations levelled in the FIR. He submits that these witnesses have been declared to be hostile. Counsel asserts that the petitioners, who are in custody since 19.08.2020 and have a clean past, deserve to be enlarged on bail.

Per contra, learned State counsel has opposed the petition and has filed Custody Certificate dated 19.07.2022, which is taken on record. Upon instructions received from ASI, Mohinder Singh, State counsel submits that the allegations levelled against the petitioners are serious. He submits that the petitioners in connivance with co-accused, Rajinder @ Billu had abducted the minor prosecutrix, though he could not deny that there is no allegation of sexual assault against any of the accused. As per his instructions, three out of fourteen prosecution witnesses have been examined.

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Having heard counsel for the parties, this Court is prima facie of the view that the complicity of the petitioners in the offence would remain controvertible before the Trial Court. The petitioners, who are in custody for the last more than one year and eleven months, would be entitled to be enlarged on bail as the trial is likely to take time to conclude as the prosecution is yet to examine eleven more witnesses.

Without adverting to the merits or de-merits of the arguments addressed by the counsel for the parties, petition is allowed. The petitioners are ordered to be released on bail on their furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

20.07.2022
Kamal

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

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