

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(106+219)

CRM-M-17914-2021(O&M)

Date of Decision: 05.04.2022

Rohit Kumar

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Ankur Bansal, Advocate for the petitioner.

Ms. Sakshi Bakshi, A.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

CRM-12817-2022

Application is allowed as prayed for.

Document Annexure P-6 is taken on record.

Main Petition

The present petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in FIR No.08 dated 8.2.2021 registered under Sections 363, 366 IPC (Section 376 IPC was added later on) at Police Station, Jalandhar Cantt., District Jalandhar.

As per facts of the case, present FIR was lodged by Anil Kumar son of Sunder Lal, wherein it was alleged that he had five daughters. The second daughter was 18 years old and studied up to 8th class. His daughter i.e. the prosecutrix (name concealed) went missing on 1.2.2021 from the house without informing anyone. They searched for her but failed to trace her out. Later on after inquiring they came to know that his daughter had been enticed away by Rohit Kumar son of Roshan Lal her on the pretext of marriage. A request was made to take legal action against the culprit.

The investigation commenced and the prosecutrix and petitioner were recovered by the investigating agency on 8.2.2021 from

Dehradun. Statement of the prosecutrix was recorded under Section 164 Cr.P.C. Thereafter the petitioner was arrested on the same day i.e. On 8.2.2021. He approached learned Addl. Sessions Judge, Jalandhar for grant of bail, however, after hearing the parties, the same was declined vide order dated 23.3.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. It is submitted that both petitioner and the prosecutrix are of the age of majority. It is submitted that from the statement of the prosecutrix it is apparent that both petitioner and the prosecutrix are next door neighbours and they were in consensual relationship. As per the allegations itself the prosecutrix eloped with the petitioner on 1.2.2021. They went to Dehradun and stayed in a hotel. They were apprehended one week thereafter i.e. on 8.2.2021 and during this period they stayed in public places, travelled by public transport and hence the prosecutrix had every access to show her resistance and seek help if there was any coercion on the part of the petitioner. However, as the relationship was totally consensual the prosecutrix never made any resistance. Counsel further submits that if the relationship is consensual then offence under Section 376 I.P.C would not be attracted. It is further submitted that the prosecutrix has deposed against the petitioner only under the pressure of her family members. Counsel submits that after recovery of the prosecutrix her swabs were taken for medical examination and in view of the FSL Report the ocular version of the prosecutrix is not medically corroborated. Counsel submits that even otherwise the prosecutrix has been examined by the Trial Court and the

petitioner, who is behind bars from the last about one year cannot hamper with the evidence of the prosecutrix. Counsel submits that in the overall facts and circumstances of the case further incarceration of the petitioner is totally unwarranted and hence he deserves to be enlarged on bail.

On the other hand learned State counsel has strongly opposed the submissions made by counsel for petitioner and submits that there are specific allegations against the petitioner regarding making false promise of marriage and then exploiting her and establishing physical relations with the prosecutrix. She submits that in all there are 14 prosecution witnesses out of which only prosecutrix has been examined so far and she has duly supported the case of the prosecution.

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

Admittedly, both prosecutrix and the petitioner are of the age of majority. The prosecutrix eloped with the petitioner on 1.2.2021 and was recovered from the company of the petitioner from Dehradun on 8.2.2021. During this period both petitioner and prosecutrix stayed in a hotel and travelled by public transport. This Court would refrain itself from commenting on the merits of the case and the contentions raised by counsel for the petitioner. The veracity of the allegations levelled in the FIR would be assessed only after conclusion of the trial. In the overall facts and circumstances of the case, this Court finds that counsel for petitioner succeeds in making out a case for grant of bail to the petitioner.

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.

(RAJESH BHARDWAJ)
JUDGE

05.04.2022

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