

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(219)

CRM-M-17954-2021

Date of Decision: 08.02.2022

Rajesh

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. S.K. Yadav, Advocate for the petitioner.

Mr. Vishal Kashyap, D.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

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.162 dated 26.12.2020 under sections 363, 366-A I.P.C, registered at Police Station, Satnali, District Mahendergarh.

As per factual matrix of the case, the FIR in question was lodged by the complainant Charan Pal son of Ram Swaroop. It was alleged that he is resident of the given address and running a retail shop at his residence itself. His daughter i.e. the victim is 17 ½ years of age and she was studying in 12th class. On 26.12.2020 she disappeared from the house. It was suspected that his daughter had been enticed away by Rajesh son of Mohan Singh on the pretext of marriage. Request was made to search his daughter and take legal action against the culprit. Thereafter, victim was recovered on the same day.

The petitioner was arrested on 27.12.2020. He approached the court of learned Addl. Sessions Judge, Narnaul for the grant of bail. However, the same was declined after hearing parties vide order dated 9.4.2021. Aggrieved by the same, petitioner has approached this Court for grant of bail.

Learned counsel for the petitioner submits that petitioner is behind the bars since 27th December, 2020. He submits that the relationship between petitioner and the victim was totally consensual. However, as the victim was just below 18 years and on account of the same, the petitioner has been falsely implicated in this case. He has drawn the attention of this Court to statement of the victim recorded under Section 164 Cr.P.C. wherein, she has categorically deposed that she went with the petitioner of her own and after having been eloped from the home, they remained at number of places and nothing wrong had been committed with her. She has further deposed that she does not want any legal action to be taken against Rajesh and Rathi. Learned counsel submits that the trial Court has already issued the summons to the witnesses but despite opportunities, they are intentionally not appearing for their depositions and the Court issued bailable warrants in the sum of Rs.5,000/- each with one surety in the like amount for securing presence of witnesses for 10.01.2022. He submits that the conduct of the witnesses shows that they are not appearing in the Court just to delay the trial. Counsel has also sent through Whatsapp the zimni orders dated 22.10.2021 and 10.1.2022 which would show that despite summons the complainant and victim have not come present in the court for their examination and thereafter on 22.10.2021 learned Trial Court issued bailable warrants against the complainant and the victim in the sum of

Rs.5,000/- each with one surety in the like amount. Thereafter, the zimni order dated 10.1.2022 would show that though the power of attorney on behalf of the complainant was filed but even on that day no witness was present and the case was adjourned for 8.4.2022 for recording evidence of prosecution witnesses.

Learned counsel for the petitioner has vehemently contended that the approach adopted by the victim is to delay the trial in order to keep the petitioner behind bars as long as possible. It is further contended that in the statement recorded under Section 164 Cr.P.C the victim has not levelled any allegations against the petitioner and hence keeping the petitioner behind bars is totally unwarranted.

On the other hand, learned State counsel on instructions from SI Sneha Lata has opposed the contentions raised by learned counsel for the petitioner. He submits that there are categorical allegations of serious offence against the petitioner. The victim in the case is a minor, however, he candidly admits that despite available warrants, victim has not appeared before the Trial Court for her examination. He further submits that in all there are 13 prosecution witnesses, however, none has been examined so far and the case is now fixed for 8.4.2022.

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

Petitioner is behind bars since 27.12.2020. Though, the victim is a minor, however, the petitioner also is a young boy of 18 years. In her statement recorded under Section 164 Cr.P.C victim has deposed that she was in love with the petitioner and neither her family members nor the family members of the petitioner were happy with their relationship and

therefore both of them ran away. Despite summons and issuance of bailable warrants victim is avoiding her presence before the Trial Court. In all there are 13 prosecution witnesses out of them none has been examined so far. The veracity of the allegations levelled would be evaluated by the Trial Court on the basis of evidence to be led by both the parties. 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.

08.02.2022

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(RAJESH BHARDWAJ)**JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No