

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(217)

CRM-M-16837-2022

Date of Decision: 30.05.2022

Iqbal Singh

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. N.K. Ganga, Advocate for the petitioner.

Mr. Neeraj Poswal, A.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C praying for grant of regular bail to the petitioner in case FIR No.298 dated 31.7.2021 registered under sections 363, 366-A I.P.C (sections 376(2)(n), 376(3), 120-B IPC and section 6 of POCSO Act were added later on) at Police Station, Rania, District Sirsa.

As per facts of the case, present FIR was lodged by father of the victim. The sum and substance of the allegations in the FIR is that on 28.7.2021 at about 10.30 AM the son of the complainant left his sister i.e. the victim at Outu head, however, she did not reach up to 4 O'clock at the house of her maternal uncle, then they started searching for her. On 29.7.2021 the son of the complainant had a chat on Instagram with a person having I.D by the name of Navi Rai and his identity was disclosed as Malkit Singh from the photo shared on Instagram. After lodging of FIR the investigation commenced. During the course of investigation Malkit Singh was not found involved in the occurrence, however, it was revealed that petitioner Iqbal Singh along with co-accused Sukha took away the victim and kept her in the house of Paramjeet Kaur at Ludhiana. On her

interrogation she disclosed that the accused had brought the victim to her house as Iqbal wanted to marry the victim girl. The statement of the victim was recorded under Section 164 Cr.P.C. Petitioner was arrested on 19.9.2021. He approached the court of learned Addl. Sessions Judge, Special Fast Track Court, Sirsa for grant of bail, however, after hearing the parties, the same was declined vide order dated 29.3.2022. 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. He submits that petitioner is a 19 years old boy and is at the threshold of his life. He submits that victim being less than 18 years of age, petitioner has been roped in the present FIR, however, there was no coercion or compulsion from the side of the petitioner on the victim. He submits that during investigation statement of prosecutrix was recorded under Section 164 Cr.P.C and she gave a clean chit to the petitioner by stating that she had left her home due to the atrocities committed on her by her parents. He further submits that the investigating agency wanted to conduct the medical examination of the victim, however, she refused for the same. It is submitted that thereafter victim has been examined by the Trial Court as PW-1, however, she has reiterated her deposition made in the statement recorded under section 164 Cr.P.C and thus has not supported the case of the prosecution. Counsel submits that the petitioner is behind bars since 19.9.2021 and he has no criminal antecedents and hence the petitioner deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by counsel for petitioner and submits that there are

specific allegations against the petitioner. He further submits that victim is a minor and during investigation complicity of the petitioner has been established. However, he candidly acknowledges that the victim has not supported the case of the prosecution.

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

The victim is 16 years of age, whereas petitioner is 19 years old. She went missing from 28.7.2021 and was recovered on 18.9.2021. Her statement was recorded under Section 164 Cr.P.C, wherein she specifically deposed that the petitioner had committed nothing wrong with her. She refused to undergo medical examination. Thereafter she was examined by the Trial Court as PW-1, where again she did not support the case of the prosecution and was declared hostile. She has specifically deposed before the Trial Court that petitioner Iqbal Singh neither kidnapped her nor committed rape upon her at any point of time. 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

30.05.2022

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