

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(217)

CRM-M-18803-2021
Date of Decision: 17.08.2022

Pappu Ram

--Petitioner

Versus

State of Punjab & another

--Respondents

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

Present:- Mr. K.K. Jain, Advocate with
Mr. Varun Garg, Advocate for the petitioner.

Mr. A.S. Dhaliwal, D.A.G., Punjab.

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.18 dated 26.2.2021 under sections 363, 366-A, 376 I.P.C read with section 4 of POCSO Act, registered at Police Station, Ghagga, district Patiala.

As per factual matrix, a complaint was lodged by the father of the victim, wherein it was alleged that he was doing the labour work and had three children. His eldest daughter i.e. the victim (name concealed) was about 15 years old. On 25.2.2021 they went to sleep at about 10 PM and his daughter i.e. the victim also went to sleep, however at about 1 AM in the night when his wife got up, she found the victim missing. They made best of the efforts to trace her, however, failed to do so. However, his daughter came back on 26.2.2021 at about 12.15 PM. On their asking she disclosed that Pappu Ram i.e. the present petitioner had enticed her away on the pretext of marriage and made physical relations with her against her consent.

On the basis of complaint present FIR was lodged and investigation commenced. Statement of the victim under section 164 Cr.P.C was recorded and she was medically examined. The petitioner was arrested on 26.2.2021. He approached learned Addl. Sessions Judge, Patiala for grant of bail, however, after hearing the parties, the same was declined vide order dated 7.4.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner is a young boy of about 19 years of age and he has been falsely implicated in the present case by the family members of the victim. He submits that even the age of the victim is not established by the prosecution so far and in the absence of any evidence she has been shown to be less than 18 years of age. Counsel submits that statement of the victim under section 164 Cr.P.C was recorded, wherein she had deposed that in the night of 25.2.2021 she went with the petitioner of her own will and petitioner did not commit any wrong act with her. He submits that the relationship between the petitioner and victim was consensual. He submits that relationship between the petitioner and victim was not acceptable to her family members and hence under their pressure she deposed contrary to her statement recorded under section 164 Cr.P.C before the Trial Court. He submits that material witnesses in this case already stand examined and hence there is no apprehension of the petitioner influencing the witnesses. Counsel submits that petitioner has no criminal antecedents and thus he deserves to be granted bail.

On the other hand, learned State counsel submits that victim is a minor and even if she was a consenting party, her consent has no legal sanctity in the eyes of law. He submits that victim has supported the case of the prosecution while being examined by the Trial Court. However, he candidly acknowledges that in her statement recorded under section 164 Cr.P.C victim had deposed that she went with the petitioner of her own will and he did not commit any wrong act with her. He submits that petitioner has no criminal antecedents. It is submitted that out of the total 17 prosecution witnesses 6 have already been examined by the Trial Court.

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

Admittedly the petitioner is behind bars since 26.2.2021. In her statement recorded under section 164 Cr.P.C victim did not allege anything against the petitioner, however, while being examined before the Trial Court she changed her earlier stand and supported the case of the prosecution. Besides this, petitioner has no criminal antecedents. As per information provided by learned State counsel out of total 17 prosecution witnesses 6 including the victim have already been examined. Thus there is no apprehension of the petitioner of influencing the witnesses. The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. 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.

(RAJESH BHARDWAJ)
JUDGE

17.08.2022

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