

**216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-22569-2021

Date of decision : 04.02.2022

Mohit @ Baba

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. S.S. Mor, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

RAJESH BHARDWAJ, J.

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. praying for grant of regular bail to the petitioner in case FIR No.70 dated 05.03.2021, under Sections 363, 366 of the Indian Penal Code, registered at Police Station Sadar Jhajjar, District Jhajjar.

As per the facts of the case, the present FIR was lodged by complainant Sunita wife of Brahm Prakash, resident of Officers Colony, Jhajjar. It was alleged that on 05.03.2021, she and her daughter aged 15 years (victim A) both went to meet her daughter's friend (victim B) in Village Sekhupur on scooty. When they reached Village Sekhupur then victim B was alone at her home. On asking about her mother, victim B told that her mother had gone to meet someone. Then her daughter i.e.

victim A and victim B, both went on scooty to call her mother and after some time, mother of victim B Sarla came home alone and after waiting for some time when both the victims i.e. victim A and victim B did not come back, they tried their best to search them. However, it was suspected that both the girls had gone with their own will or somebody had enticed them away. The request was made to search both the girls i.e. victim A and victim B and to take the legal action against the culprits. In pursuance to the same, the investigation commenced and both the victims were recovered from Haridwar on 9th March, 2021. The petitioner was arrested on 9th March, 2021. He approached learned Additional Sessions Judge, Jhajjar for grant of bail, who after hearing counsel for the parties, declined the same vide his order dated 24.05.2021. Aggrieved by the same, petitioner has approached this Court praying for grant of bail.

It has been vehemently contended by counsel for the petitioner that the petitioner has been falsely implicated in this case and no offence is made out against him. He submits that as per the allegations in the FIR, there is no whisper regarding the complicity of the petitioner. He submits that as per the allegations in the FIR which is lodged by mother of the victim A, it was contended that both the victims left the home on their own will on 5th March, 2021. As per the recovery memo which is placed on record as Annexure P-2 dated 9th March, 2021, both the alleged victims were recovered from Har Ki Paudi near Ghanta Ghar, Haridwar. There is no whisper even in the recovery memo about the presence of the petitioner at the relevant time. He further submitted that the statement under Section 161 Cr.P.C. of both the victims were recorded on 9th March, 2021 which are placed on record as Annexures P-3

and P-4. He vehemently contends that the bare perusal of the same would show that the statements were given by them with their free will and without any pressure. They stated that they went to see Kumbh Ka Mela without informing anyone at their home. He has placed on record copies of the depositions of all the four material witnesses i.e. of both the victims and of their respective mothers who have been examined as PW-1 to PW-4. He has drawn the attention of this Court to their respective depositions. It was stated by victim A that she used to chat with accused Mohit @ Baba on Instagram. She deposed that on the pretext of calling the mother of her friend i.e. victim B, both of them went to Rohtak and parked the scooty near railway line. Thereafter, they went to Rohini (Delhi) in a cab. They stayed with one Ravi, who was friend of the other victim and they stayed with him over a night. Accused Mohit @ Baba (petitioner) was already present there. On the next day, they left for Haridwar with petitioner Mohit. They stayed there in a Dharamshala in Haridwar. However, victim B telephonically informed her location to her brother and thereafter, the police found them on the next day and recovered them. He further relies upon the MLR of both the victims which are placed on record as Annexures P-5 and P-6 wherein, both the victims have stated that they did not want examination of their internal parts and regarding the same, there was no pressure on them. It was further stated by them that neither any rape was committed with them nor any beating was given to them. He has submitted that though, both the victims are of the age of about 15 and 16 years, however, from the facts and circumstances and the evidence collected by the investigating agency, there is not an *iota* of doubt left in the mind that both the victims had left their home with their

free will and they visited number of places with their own consent and hence, the petitioner has been falsely implicated in this case. He submits that even otherwise now all the material witnesses have been examined and hence, there cannot be said to have any apprehension of tampering with the ongoing trial, by the petitioner. He submits that in the overall facts and circumstances, it is apparent that petitioner has been falsely implicated in this case and hence, he deserves to be enlarged on bail.

On the other hand, learned State counsel opposes the submissions made by counsel for the petitioner. He submits that both the victims are of the age of about 15 and 16 years and thus, being minor, their consent is meaningless in the eyes of law. He has submitted that during investigation, the complicity of the petitioner in abducting the minor victims has been duly established. He submits that out of 12 prosecution witnesses, 05 witnesses already stand examined including four material witnesses i.e. both the victims and their mothers. He asserts that the material witnesses have duly supported the case of the prosecution and hence, petitioner deserves no leniency and thus, the prayer made for grant of regular bail may be rejected.

I have heard counsel for the parties and perused the records.

Admittedly, both the victims are minor. They eloped from home on 5th March, 2021. It has come during investigation that they left the home on their own and stayed at different places like Delhi and Haridwar. They were recovered on 9th March, 2021 and their custody was handed over to their parents. The victims refused to give their consent for medical examination after the recovery. Even in their statements given under Section 164 Cr.P.C., they had deposed that they went to see Kumbh

Mela without informing any member of their families. The statement of both the victims and their mothers recorded before the trial Court would again show that after having been eloped from their home, they remained at different places and went with the petitioner from Delhi to Haridwar. As submitted by learned State counsel, there are in all 12 prosecution witnesses, out of which, 05 witnesses have already been examined including the material witnesses. This Court would refrain from commenting anything on the merits of the case as the veracity of the allegations would be evaluated by the trial Court only on the basis of evidence to be led by the parties before it. However, in the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail.

In the overall facts and circumstances of the case, it is apparent that the trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

04.02.2022
m. sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No