

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

CRM-M-21610-2022

Date of decision : 10.08.2022

Akshay Kumar

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Parveen Sharma, Advocate
for the petitioner.

Mr. Kirpal Singh, AAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.0058 dated 31.1.2022, registered under Sections 363, 366-A of the Indian Penal Code and Section 84 of Juvenile Justice (Care and Protection of Children), Act, 2015, at Police Station Sonipat, Sadar, District Sonipat.

As per factual matrix of the case, the present FIR was lodged by father of the victim namely, Dharambir son of Preet Singh. It was alleged that his daughter-victim (name concealed) was missing from the house since 24.01.2022. They enquired from all the possible relatives and friends, however, failed to trace her. It was suspected that someone had allured his minor daughter. He came to know that Akshay -petitioner took his daughter by enticing her with an intention to marry her. The request was made to

trace out his minor daughter and to take necessary action against the culprits. Pursuant to the FIR, investigation commenced, victim was recovered on 1.02.2022 and her statement under Section 164 Cr. P. C. was recorded. The petitioner was arrested on 04.02.2022. Thereafter, petitioner approached learned Additional Sessions Judge (Fast Track Court), Sonipat for grant of bail, who after hearing counsel for the parties, declined the same vide order dated 25.04.2022. Aggrieved by the same, petitioner has approached this Court by way of filing the present petition.

It has been contended by counsel for the petitioner that petitioner has been falsely implicated in this case. He submits that petitioner is a young boy of 17 years of age. He has submitted that both the petitioner and the victim were in consensual relationship and they went together with their own free will. There was no coercion or threat whatsoever on the part of the petitioner in compelling the victim to go with him. However, the family members of the victim were against their relationship. He submits that the victim was recovered after a week i.e. on 01.02.2022 and even though, between that period (w.e.f 24.01.2022 till 30.01.2022), no complaint and FIR has been lodged by her father or her family members. The FIR was lodged on 31.01.2022 after a delay of more than 7 days. The prosecutrix was recovered on 01.02.2022 and she was produced before the learned Magistrate, Sonipat for recording her statement under Section 164 Cr.P.C. She was produced before the Medical board also but she did not give her consent for her medical examination and hence the same could not be carried out. He has drawn the attention of this Court to the statement made by the victim. The same would reveal that the victim had deposed that

on 24.01.2022 in the night, she had gone away from her house without disclosing anyone, with her friend Akshay i.e. the petitioner. Thereafter, they stayed in Hotel in separate rooms, and travelled one place to another place. She specifically mentioned that the petitioner never committed any wrong act with her. It is further submitted that right from the very beginning, a perusal of the statement of the prosecutrix would show that there was only one accused named, however, in her deposition before the learned Magistrate she disclosed the names of three more accused for the first time in this case. He has further submitted that in the cross-examination she admitted that for the same action also there was another FIR lodged against one Adesh and her statement was also recorded under Section 164 Cr. P. C. Learned counsel further submits that from the reading of the statement under Section 164 Cr.P.C., it is apparent that the relationship between the petitioner and the prosecutrix was consensual and the petitioner is totally innocent. He submits that it is under the pressure of the family members, the alleged victim has been compelled to depose against the innocent petitioner. He submits that now victim and the complainant are also examined by the trial Court. Even if they have supported the case of the prosecution, the innocence of the petitioner is writ large and there cannot be any apprehension on the part of the petitioner for influencing the victim who has already been examined before the trial Court. Hence, he deserves to be enlarged on bail.

Learned counsel for the complainant however, opposing the submission made by the petitioner, submits that there are specific allegations are levelled against the petitioner and even the prosecutrix is

minor and the petitioner has enticed her away with wrong intentions.

Learned State counsel opposes the submissions made by counsel for the petitioner. He, on instructions from SI Ashok, submits that the victim is minor and hence, her consent is immaterial in the eyes of law. He submits that the complainant and the victim both have been examined by the trial Court and they have duly supported the case of the prosecution. He further submits that out of total 13 prosecution witnesses, 03 witnesses including the prosecutrix and her father, have been examined till date.

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

Petitioner is a young boy of 17 years of age. As per the allegations, victim and the petitioner, both went from the house on 24.01.2022 and stayed for 6-7 days in a hotel and the victim was recovered on 31.01.2022. Her statement under Section 164 Cr.P.C. was recorded in which she deposed that petitioner was innocent and she did not give her consent for medical examination. The prosecutrix and the complainant, both stand examined. This Court would refrain from commenting anything on the merits of the case and the allegations and the counter-allegations would be evaluated by the trial Court on the conclusion of the evidence to be led before it by the parties. 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. Keeping in view the abovesaid facts, this Court finds that learned counsel for the petitioner has succeeded in making out a case for grant of regular bail. 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.

10.08.2022
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(RAJESH BHARDWAJ)
JUDGE

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