

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

Sr. No.223

CRM-M-22535-2022

Date of decision: 08.08.2022

Younus and another

....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sanjeev Goyal, Advocate
for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Anil Bansal, Advocate for
Mr. Saqib Ali, Advocate
for the complainant.

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DEEPAK SIBAL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.122 dated 06.10.2021 registered under Sections 363, 366-A and 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Sadar Ahmedgarh, District Malerkotla.

The complainant filed a complaint with the police as per which on 04.10.2021 his minor daughter was missing and he feared that she had been enticed away by some person(s). On his complaint, a FIR under Sections 363 and 366-A IPC was registered. As a result of the investigations conducted in the said FIR the complainant's daughter was recovered by the police. On being recovered, she alleged that on 04.10.2021 when she was going to school, petitioner No.1 alongwith two other persons forcibly made her sit in a car and took her to some Advocate in Chandigarh where she was made to sign certain papers. Thereafter, she was kept at Maqsudan for 3/4 months where petitioner No.2's son – Manjur Ali raped her. She further stated that while she was with Manjur Ali, petitioner No.2 also teased her.

Learned counsel for the petitioners inter-alia contends that the petitioners have been falsely implicated in this case as the complainant's daughter and petitioner No.2's son Manjur Ali had got married against the wishes of the complainant; after their marriage Manjur Ali and the complainant's daughter (the alleged victim) had filed a petition before this Court being CRWP-9787-2021 – Manjur Ali and another vs. State of Punjab and others, through which they had sought protection of their life and liberty which they felt threatened at the hands of the complainant; in such petition, the prosecutrix had stated that she had got married to Manjur Ali; their Nikahnama was also appended with the petition; the afore petition was allowed by this Court; for 3/4 months, Manjur Ali and the prosecutrix stayed together as husband and wife; after 3/4 months, the prosecutrix went back home and at that moment a false FIR was got lodged against Manjur Ali and the petitioners; the allegations against petitioner No.1 to be the person who took the prosecutrix to some Advocate in Chandigarh is ex-facie false; no application has been filed by the prosecutrix seeking modification of the order of this Court; the allegations against petitioner No.2, who is Manjur Ali's father of him having teased the complainant are also apparently false and motivated; the petitioners are in custody since 20.03.2022; photographs appended with the present petition clearly depict proof of marriage of the prosecutrix with Manjur Ali and that no useful purpose would be served in further incarceration of the petitioners.

Learned State counsel opposes the grant of bail to the petitioners on the ground that petitioner No.1 forcibly took the prosecutrix to some Advocate in Chandigarh where she was made to sign certain blank papers and that petitioner No.2, who is father of Manjur Ali, has teased a minor girl.

CRWP-9787-2021 – Manjur Ali and another vs. State of Punjab and others, was jointly filed by Manjur Ali and the alleged victim as husband and wife. Through such petition they had sought protection of their life and liberty which they feared threatened at the hands of the complainant. In such petition they had appended not only their photographs evidencing their marriage but also their Nikahnama. Relying on such evidence this Court allowed their prayer.

No application has been filed by the prosecutrix before this Court alleging that during the course of procurement of such order she was made to sign any blank papers.

In the light of the above, the allegations against petitioner No.1 that he forcibly took the prosecutrix to Chandigarh where she was made to sit in the office of an Advocate and made to sign certain blank papers are debatable.

Petitioner No.2 is about 70 years old. He is Manjur Ali's father, who allegedly got married to the prosecutrix against the wishes of the complainant. In the light of the afore observations, the allegations against petitioner No.2 with regard to him having teased the prosecutrix would also be debated during the course of his trial.

Nonetheless, the petitioners are in custody since 20.03.2022 and that since none of the prosecution witnesses have been examined in their trial the same is likely to take a long time to conclude.

In view of the above, the present case is considered to be a fit one in which the petitioners be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Sangrur, the petitioners are directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

August 08, 2022
Jyoti 1

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No