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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23514-2022 (O&M)
Date of decision : 13.12.2022

Gurpreet Singh @ Sajan

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Jagjit Singh, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

CRM-46897-2022

Application is allowed as prayed for.

Annexures P-6 and P-7 are taken on record.

CRM-M-23514-2022

Petitioner has approached this Court praying for grant of regular bail in case FIR No.35 dated 10.05.2019, under Sections 376, 120-B IPC and Section 4 of POCSO Act, 2012, registered at Police Station Dhilwan, District Kapurthala later on added Sections 318, 420, 506 of IPC (after enquiry, offence under Section 120-B IPC and Section 4 of POCSO Act were deleted).

Succinctly, the facts of the case are that the prosecutrix lodged the complaint with the police. The sum and substance of the allegations are that she was about 18 years old. In March, 2018, she went to the cloth shop of Sajanpreet Singh (petitioner) to purchase clothes. He gave her his mobile number and started talking to her. Slowly, they developed friendly relations and started meeting each other. On

02.08.2018 Sajanpreet Singh called her to his shop in order to introduce her to his mother. She went there for meeting his mother but Sajanpreet Singh forcibly established physical relations with her. Thereafter, she became pregnant. Sajanpreet Singh promised her to get married but he managed to get her pregnancy terminated and after having been terminated, he refused to marry her. The request was made to lodge the FIR against the culprit and take legal action against him. On the basis of the complaint, formal FIR was registered and the investigation commenced. The investigating agencies could not carry out the medical test of the prosecutrix as she refused to undergo the medical test. Petitioner was arrested on 10.04.2022. Though in the FIR in all 8 accused were named, however, during investigation, the allegations qua 7 of the accused were not substantiated and hence, challan was presented only against the accused-petitioner. He approached the learned Judge, Special Court, Kapurthala praying for grant of bail. However, after hearing counsel for both the sides, learned Judge declined the same vide its order dated 17.05.2022. Aggrieved by the same, the petitioner is before this Court praying for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He has submitted that the false FIR was lodged on the basis of the false and frivolous allegations and the offence was also added under the POCSO Act. However, during investigation, it was found that the prosecutrix is of the age of majority and hence, offence under Section 4 of POCSO Act was deleted. He has submitted that though the allegations against the petitioner are levelled for forcibly establishing physical relations with the

prosecutrix, however, she refused to undergo the medical test and thus, the allegations are not medically corroborated. He submits that all the family members and relatives of the petitioner were roped in by the prosecutrix, however, during investigation, rest of the accused named in the FIR were found innocent which would show that the FIR was lodged clandestinely in order to harass the petitioner and his family members. To buttress his arguments, counsel for the petitioner went on to argue that learned trial Court has examined the prosecutrix as PW-1 and her mother as PW-2. He has drawn the attention of this Court to their depositions wherein, they have not supported the case of the prosecution and thus, both of them were declared hostile. He has submitted that once the prosecutrix and her mother who are the material witnesses for the prosecution have not supported the case of the prosecution, false implication of the petitioner is writ large. He has submitted that the petitioner has no criminal antecedents and thus, in the overall facts and circumstances of the case, he deserves to be granted bail.

Learned State counsel on the other hand has opposed the submissions made by counsel for the petitioner. He, on instructions from ASI Sarabjeet Singh, submits that the prosecutrix has levelled specific allegations against the petitioner. He submits that during investigation, statement of the prosecutrix was recorded under Section 164 Cr.P.C. wherein she specifically made the allegations against the petitioner. However, he candidly acknowledges that both the prosecutrix and the mother had been examined as PW-1 and PW-2 but they did not support the case of the prosecution and thus, were declared hostile. He also submits that as per instructions provided, the petitioner is not involved in any other case. He submits that in all there are 19 prosecution witnesses, out of which, 02

witnesses are already examined i.e. the prosecutrix and her mother.

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

Evidently, the case of the prosecution against the petitioner are that he established physical relations with the prosecutrix on the promise of marriage. The offence under Section 4 of POCSO Act was deleted during investigation as the prosecutrix was found to be of the age of majority. The petitioner and the prosecutrix thus, are of the age of majority. Whether in the facts and circumstances of the case, offence under Section 376 IPC is attracted or not would be assessed by the trial Court on the appreciation of the evidence. The prosecutrix and her mother both have been examined by the trial Court and they did not support the case of the prosecution. The prosecutrix has rather deposed that neither she was kidnapped nor she was raped by anyone. There is nothing on record to show that the petitioner has any criminal antecedents.

The trial of the case will take sufficiently long time. This Court would refrain itself from commenting anything on the merits of the case. However, confining itself to the prayer made for bail, this Court finds that counsel for the petitioner succeeds 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.

13.12.2022
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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