

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(218)

CRM-M-27493-2021

Date of decision:- 25.01.2022

Sanjeev Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. K.S. Dadwal, Advocate for the petitioner.

Mr. C.L. Pawar, Senior DAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

Heard through video conferencing.

This is the second petition preferred by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of regular bail during the pendency of trial in FIR No.49 dated 24.07.2020 registered at Police Station Hazipur, District Hoshiarpur, Annexure P-5, for commission of offence under Section 376 of the Indian Penal Code, 1860 and Section 4 of Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act"), which has been added after deleting offence under Section 6 of POCSO Act.

As per the case of the prosecution, FIR, Annexure P-5, has been registered on the statement of a 17 year old girl (hereinafter referred to as "the victim/prosecutrix") whose date of

birth is 03.05.2003, on the allegation that she fell in love with Sanjeev Kumar (present petitioner), who allured her on 06.06.2020, on the pretext of solemnizing marriage and took her to Bathinda where she stayed with him till 14.06.2020. They appeared before the authorities on 15.06.2020, when under the threat from the petitioner and his siblings, she gave a statement in his favour.

Counsel for the petitioner contends that the petitioner, who is in custody since 24.07.2020, has been falsely implicated by the victim under pressure of her mother. He argues that the petitioner and the victim were having an affair as is apparent from the photographs, Annexures P-1 and P-2, and their conversation, which has been placed on the record in a pen drive, Annexure P-3. Reference has been made by the counsel to the statement of the mother of the prosecutrix, Annexure P-5 recorded on 15.06.2020 before the police wherein she stated that her daughter has eloped with the petitioner on her own and does not want to return. According to the counsel, FIR has been registered after the family members of the petitioner refused to keep the victim.

Per contra, learned State counsel, upon instructions from, ASI, Jagjit Singh has opposed the petition on the ground that the petitioner has supported the allegation in her statement under Section 164, Cr.P.C. He has referred to the examination-in-chief of the victim, Annexure P-11, which was partly recorded and was deferred, as an application was moved by the prosecution under Section 319, Cr.P.C. to summon Mamta, sister of the petitioner as

well as Nanda, cousin of the petitioner as additional accused, which has been allowed by the Trial Court. He has submitted that the petitioner is not entitled to the grant of regular bail keeping in view the seriousness of allegations against him.

I have considered the respective submissions of counsel for the parties.

There is no dispute about the age of the victim, who is admittedly a minor. Specific allegations have been levelled by her against the petitioner of alluring her on assurance of marriage and sexually exploiting her. The veracity of the photographs and conversation referred to by the counsel for the petitioner is yet to be ascertained and will be subject matter of trial. In her partially recorded examination-in-chief on 19.02.2021, the victim has categorically stated that she has been subjected to sexual assault against her consent. The victim has also been medically examined and the history of the incident recorded by the doctor on the MLR, Annexure P-6, shows that the victim had narrated the same incident to the examining doctor. Besides Section 376, IPC, petitioner is accused of offence under Section 4 of POCSO, which entails minimum imprisonment of seven years, extendable to imprisonment for life, besides fine. Statutory presumption under Section 29 of POCSO Act is also against the petitioner. The first petition filed by the petitioner (CRM-M-35634-2020) was withdrawn after arguments on 23.04.2021 and there is no change in circumstances thereafter as the examination of the victim is yet to be concluded.

Keeping in view the grave nature of allegations and the seriousness of the offence which has been committed with a young girl, who is yet to attain the age of majority, this Court is of the view that the petitioner does not deserve to be released on bail.

Petition, is accordingly, dismissed.

Needless to mention, observations have been made above solely for the purposes of adjudication of the bail petition and the Trial Court shall not be influenced therewith.

(SUVIR SEHGAL)
JUDGE

25.01.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No