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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27748-2021 (O&M)
Date of decision : 21.04.2022

Abhinash @ Billo

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

CRM-14255-2022

Application is allowed as prayed for. Annexures P-2 to P-4 are taken on record.

CRM-M-27748-2021

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.115 dated 06.06.2021, under Sections 363 and 366 of Indian Penal Code, registered at Police Station Sujampur, District Pathankot.

As per the factual matrix of the case, the present FIR was lodged by Kuldeep Kumar, who is father of the victim. The sum and substance of the allegations in the FIR are that he has three children i.e. 2 daughters and 01 son. His daughter i.e. the victim was studying in 10+2 class in Government Senior Secondary School, Malakpur and her age was 16 years, 10 months and 12 days. On 3rd June, 2021, she went to the school but did not return to home from school despite late evening. They started searching her but failed to trace her. Thereafter, they got an information that

Abhinash @ Billo has abducted her. The FIR was lodged to take legal

action against the culprits. The investigation commenced and thereafter, the victim was recovered and her statement under Section 164 Cr.P.C. was recorded by the Magistrate. She deposed that she went with the petitioner on her own and there was no coercion on her from the side of accused Abhinash @ Billo. The petitioner was arrested on 7th June, 2021. He approached the Court of learned Additional Sessions Judge, Pathankot, who after hearing counsel for the parties, declined the same vide order dated 6th July, 2021. Aggrieved by the same, the petitioner has approached this Court for grant of regular bail by way of the present petition.

Learned counsel for the petitioner has submitted that the petitioner has been falsely and frivolously implicated in this case. He submits that the prosecutrix is about 17 years of age and her statement under Section 164 Cr.P.C. was duly recorded by the Magistrate. The prosecutrix in emphatic terms deposed that the petitioner never allured her and there was no coercion from his side and thus, she has not supported the case of the prosecution. However, the complainant i.e. father of the prosecutrix as an act of vengeance has deposed against the petitioner as they were not agreed with the relationship of the petitioner.

Learned counsel for the petitioner submits that the petitioner is a young boy and is on the threshold of his life. He is behind bars since 7th June, 2021. To buttress his arguments, he has submitted that now the trial Court has examined the material witnesses i.e. mother of the victim as PW-1 and the prosecutrix as PW-3. He has placed on record copy of their depositions. He submits that the prosecutrix has deposed before the trial Court that accused Abhinash @ Billo took her to Vaishno Devi on 6th June, 2021 on her request. She further deposed that the accused never forced her to

solemnize marriage. She made the statement before the police but not against the accused Abhinash @ Billo. The accused did not commit any wrongful act with her. Thus, she was declared hostile on the request of learned Additional Public Prosecutor. However, learned counsel submits that the mother of the victim has supported the case of the prosecution. He submits that the material witnesses stand examined. The prosecutrix has already been examined and thus, there would not be any apprehension whatsoever on the part of the petitioner for tampering with the evidence. He submits that the petitioner deserves to be enlarged on bail.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the prosecutrix is less than 18 years of age, thus, being minor, her consent has no legal sanctity. He candidly acknowledges that the prosecutrix has not supported the case of the prosecution. He further submits that out of 13 prosecution witnesses, 03 witnesses including the victim and her mother have been examined.

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

Petitioner is 25 years of age whereas, the victim is 17 years of age. The victim appeared before the Magistrate and her statement under Section 164 Cr.P.C. was recorded wherein, she had deposed that the petitioner did not force her to accompany him. Thereafter, she was examined by the trial Court wherein again she has not supported the case of the prosecution. The mother of the victim is also examined. From the arguments raised, it is apparent that the material witnesses stand examined.

The trial of the case will take sufficient long time and no useful purpose will be served by keeping the petitioner in custody for such a long time. The veracity of the allegations would be assessed by the trial Court on

the appreciation of the evidence. However, without going into the merits of the case, this Court is convinced that the 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.

21.04.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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