

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

CRM-M-27692-2021

Date of decision : 02.09.2022

Surinder Kumar

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. A.P. Singh, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

Mr. Neeraj Jain, Advocate for
Mr. Sandeep Sharma, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.0035 dated 19.03.2021, under Sections 376, 417, 506 of IPC and Section 6 of POCSO Act, 2019, registered at Police Station Shahpurkandi Tehsil and District Pathankot.

As per the facts of the case, the complaint was lodged by the victim herself wherein it was alleged that accused-Surinder Kumar had made physical relations with her many times on the promise of marriage and thereafter, he denied to perform the marriage as promised by him. The accused agreed in front of all the respectable persons that he would marry her on 07.02.2021 but he refused thereafter. The request was made to lodge the FIR and to take legal action against the culprit. On the basis of the same, the FIR was lodged and the investigation commenced. The statement of the prosecutrix was recorded under Section 164 Cr.P.C. wherein she reiterated her allegations made in the FIR. The petitioner was

arrested on 20th March, 2021. He approached the Court of learned Additional Sessions Judge-I, Pathankot praying for grant of bail. After hearing counsel for the parties, learned Additional Sessions Judge declined the same vide its order dated 10th May, 2021. Aggrieved by the same, the petitioner approached this Court praying for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that the petitioner and the prosecutrix were in consensual relationship. However, the same was not acceptable to the family of the prosecutrix and thus, the petitioner was falsely implicated in this case. He has submitted that the allegations pertaining to establishing physical relations with the prosecutrix were totally false and frivolous. He submits that during the pendency of the trial, the petitioner has already performed marriage with the prosecutrix. He submits that he was granted interim bail by the Court to enable them to marry. Pursuant to which, they got married on 14.03.2022. He further submits that the petitioner thereafter, duly surrendered. He has advanced the arguments that the material witnesses i.e. prosecutrix and her mother have already been examined by the trial Court who have not supported the case of the prosecution. He has submitted that the petitioner is behind bars from last more than 1 ½ years and as on date, the petitioner and the prosecutrix are husband and wife and their relationship is also accepted by the family members. He submits that once the prosecutrix and her parents have not supported the case of the prosecution, further incarceration of the petitioner is totally unwarranted. He has submitted that the petitioner has no criminal antecedents.

Learned counsel for the complainant has affirmed the submissions made by counsel for the petitioner.

Learned State counsel, on instructions from ASI Gulshan, has submitted that the petitioner is being prosecuted for the offence under POCSO, however, he candidly acknowledges that the petitioner was granted interim bail for one day for enabling him and the prosecutrix to get married. He has submitted that the material witnesses including the prosecutrix have not supported the case of the prosecution. He also submits that as per the instructions provided to him, the petitioner is not facing prosecution in any other case.

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

Petitioner is behind bars since 20.03.2021. The prosecutrix and her mother admittedly have not supported the case of the prosecution. However, both of them have got married during the pendency of the trial of this case. There is nothing on record to show that the petitioner has any criminal antecedents. The veracity of the allegations would be assessed only after the conclusion of the trial. However, this Court would refrain itself from commenting anything on the merits of the case.

The trial of the case will take sufficient long time. 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.

02.09.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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