

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(106+212)

CRM-M-29943-2021(O&M)
Date of Decision: 31.08.2022

Harjit Singh @ Jeeta

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Bhavesh Aggarwal, Advocate for the petitioner.

Mr. Karunesh Kaushal, A.A.G., Punjab.

Mr. Munish Puri, Advocate for the complainant.

RAJESH BHARDWAJ.J (Oral)

CRM-31725-2022

Application is allowed as prayed for.

Annexures P-6 to P-8 are taken on record.

Main Petition

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.49 dated 11.4.2018 under sections 363, 366, 366-A, 376, 120-B IPC and section 4 of POCSO Act, registered at Police Station, Jandiala, District Amritsar Rural.

As per factual matrix, the FIR in question was lodged by the father of the prosecutrix, wherein it was alleged that his daughter i.e. the victim was 14 years of age. On 10.4.2018 when all the family members were at home, his daughter left the home in front of them. It was alleged that his daughter had been enticed away by Sandeep Singh in connivance with the present petitioner and other co-accused to perform the marriage. A

request was made to take legal action against the culprits.

The investigation commenced. The victim was recovered on 13.4.2018. She was produced before the concerned Judicial Magistrate for recording her statement under section 164 Cr.P.C. She was also sent for medical examination by the investigating agency. During investigation out of the 5 accused named in the FIR only two were arrested, however, petitioner was arrested subsequently on 4.5.2021. He approached learned Addl. Sessions Judge (FTC), Amritsar for grant of bail, however, after hearing the parties, the same was declined vide order dated 14.7.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. He submits that from the reading of the allegations made in the FIR except some general allegations, there is no role attributed to the petitioner. He submits that after completion of investigation petitioner was kept in column no.2 and the investigating agency filed challan only qua Sandeep Singh and Nirmal Kaur. He submits that after conclusion of the trial both these accused were convicted by the learned Trial Court on 21.12.2019. However, thereafter petitioner was illegally arrested by the investigating agency and the challan was presented against him. Counsel submits that rest of the two co-accused have already been granted benefit of anticipatory bail by this court. Counsel further submits that the victim in her statement recorded under section 164 Cr.P.C had deposed that her family members used to beat her and she left her home of her own wish and free will. She had also

deposed that Sandeep Singh was innocent and he had been falsely implicated in this case. She had further deposed that her father had performed second marriage and he followed whatever her step mother instructed to him. To buttress his arguments counsel further submits that victim has already been examined by the learned Trial Court as PW-4. In her deposition she stated that it was Sandeep Singh who committed rape with her and not the present petitioner Harjit Singh. She further deposed that it was correct that petitioner Harjit Singh never compelled her to establish physical relations with him. Counsel submits that as the material witnesses already stand examined the possibility of the petitioner influencing them no more survives. He submits that petitioner has no criminal antecedents and he deserves to be granted the benefit of bail.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner. He submits that petitioner had filed an application before the learned Trial Court that he has been falsely implicated in the present case and an enquiry was initiated on his application and on that account he was kept in column no.2. He further submits that the prosecutrix has duly supported the case of prosecution and there are specific allegations against the petitioner regarding his involvement in the offence. However, he candidly submits that all the material witnesses including the prosecutrix stand examined by the learned Trial Court. He submits that out of the total 19 prosecution witnesses two have been examined till date. He further submits that as per information provided to him petitioner is not involved in any other case.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars since 4.5.2021. Initially he was kept in column no.2 and was arrested subsequently. The prosecutrix in her statement recorded under section 164 Cr.P.C has deposed that she left the home of her own will to marry with the co-accused Sandeep Singh. The material witnesses including the prosecutrix already stand examined before the learned Trial Court and hence the possibility of the petitioner influencing them is no more. Two of the co-accused in this case have already been granted the benefit of anticipatory bail by this court. There is nothing on the record to show that petitioner has any criminal antecedents. The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to the satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

31.08.2022

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No