

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

CRM-M-30063-2021 (O&M)
Date of Decision: 18.01.2022

Amandeep Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Chandan Singh Rana, Advocate, for the petitioner.
Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.44 dated 2.4.2019, registered under Sections 363, 366 IPC and Sections 3 and 4 of Protection of Children from Sexual Offences Act, 2012, at Police Station Dakha, District Ludhiana.

As per factual matrix of the case, the FIR in question was registered by Balwant Singh son of Malkit Singh. It was alleged that his daughter i.e. the victim is 17 years of age and passed 8th class. On 30.3.2019, as per the daily routine when family slept after dinner and when they woke up at 4:00 am, they found that the prosecutrix was not present at home. They made efforts to trace her out, however, they failed. The FIR was lodged to trace out the girl and take action against the culprit.

Earlier PO proceedings were initiated against the petitioner,

however, he was arrested on 31.3.2020. The petitioner approached the learned Additional Sessions Judge, Fast Track Special Court Ludhiana for grant of bail, who after hearing the parties, declined the same vide its order dated 24.11.2020. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He submits that though the prosecutrix was less than 18 years of age, however, there was no fault on the part of the petitioner as the prosecutrix went with the petitioner with her free will and without any coercion on the part of the petitioner. He submits that they left the home on 2.4.2019, whereas the prosecutrix was recovered on 31.3.2020. He submits that after recovery of the prosecutrix, her statement under Section 164 Cr.P.C. was recorded on 1.4.2020. He has drawn the attention of this Court to the observations of the learned Additional Sessions Judge regarding the statement recorded under Section 164 Cr.P.C, wherein, she deposed that after having gone with the petitioner, they remained together for about one year in a rented accommodation in Chandigarh. No allegations of rape was levelled against the petitioner by the prosecutrix in that statement. He submits that from the overall facts and circumstances, it is apparent that the petitioner and the prosecutrix remained together for about one year without any coercion and thus, the petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel has relied upon the status report filed by the State. He submits that in the statement recorded under Section 164 Cr.P.C., the prosecutrix deposed before the learned

JMIC, Ludhiana that she did not want to accompany her parents and under those circumstances, the learned JMIC ordered that the prosecutrix be sent to Gandhi Vanita Ashram, Jalandhar. In compliance to said order, she was sent to the said Ashram on 1.4.2020. He further submits that unfortunately on 17.12.2020, the prosecutrix died in the hospital and her postmortem was conducted. As per the postmortem, her cause of death was ascertained to be Pulmonary Tuberculosis and the proceedings under Section 174 Cr.P.C. were conducted. He submits that the prosecutrix died before her examination in the Court, however, the statement under Section 164 Cr.P.C. was recorded. He has submitted that out of total 15 prosecution witnesses, 3 witnesses have been examined.

Heard.

The petitioner is behind bars since 30.3.2020. Needless to say that unfortunately the prosecutrix is no more, however, in her statement under Section 164 Cr.P.C. she had categorically submitted that she remained with the petitioner with her free will for about one year in a rented accommodation in Chandigarh. As she never wanted to go with her parents, the learned JMIC sent her to the Gandhi Vanita Ashram, Jalandhar. Out of total 15 prosecution witnesses, only 3 witnesses have been examined so far. Thus, it is evident that trial would take sufficient time in its conclusion and hence no purpose would be served by keeping the petitioner in custody for such a long time. In the overall facts and circumstances of the case, I am of the opinion that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail 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.

18.01.2022

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned

:

Yes/No

Whether Reportable

:

Yes/No