

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

CRM-M-31160-2021
Date of Decision: 22.3.2022

Dhana Bhagat Singh @ Dhana Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Amritpal Singh Gill, Advocate, for the petitioner.
Mr. Rakeshinder Singh Sidhu, AAG, Punjab.
Mr. Harveet Singh Sehgal, Legal Aid Counsel for the victim.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.23 dated 10.2.2021, registered under Sections 363, 366-A, 376-D IPC (Section 120-B IPC added lateron) and Section 6 of POCSO Act, 2012 (now offence under Section 376D(A) added and Section 376D IPC deleted), at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

As per the factual matrix of the case, the present FIR was lodged by the prosecutrix herself. The crux of the whole case is that the prosecutrix/victim was 14 ½ years of age, who was studying in 7th class. On 31.1.2021 at about 2:30 p.m., when she was alone at home, then Jagjit Singh son of Jora Singh came to her house and said that her aunt (Massi) is waiting for her at Mukandewala road. She reached at Mukandewala road, when Jagjit Singh and Dhanna Singh i.e. the petitioner were standing with a motorcycle. They forcibly made her to sit on the motorcycle and took her to Sadak Chowk from where Dhanna Singh went back on motorcycle and Jagjit Singh took her to village Madhopur on the pretext of performing marriage. Thereafter, the

above said Jagjit Singh committed rape on her. On 9.2.2021 her father Krishan Singh, uncle Gurcharan Singh and other relatives reached village Madhopur and the prosecutrix was recovered from there. It was alleged that Jagjit Singh committed rape on her on the pretext of marriage and Dhanna Singh helped him in enticing her away. Request was made to take legal action against the culprits. In pursuance to the FIR, the investigation commenced and the petitioner was arrested on 11.2.2021. The petitioner approached the learned Additional Sessions Judge, Sri Muktsar Sahib for grant of bail, who after hearing the parties, declined the same vide its order dated 30.4.2021. 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 submitted that the petitioner has been falsely implicated in the present case. He submits that the only role assigned to the petitioner is that he allegedly took the prosecutrix on motorcycle, whereas, the main accused is Jagjit Singh, who committed rape. He submits that from the bare reading of the allegations in the FIR, no rape has been committed by the petitioner. He has further submitted that the co-accused Khajan Singh has already been granted bail by this Court vide order dated 1.7.2021.

Learned counsel for the complainant has opposed the submissions made by learned counsel for the petitioner and submitted that the petitioner has played a specific role in kidnapping the minor victim.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner and submitted that the petitioner has played a key role in kidnapping the minor. He submits that the prosecutrix is less than 15 years of age and even if there is a consent on the part of prosecutrix the same has no legal sanctity. He further submits that the petitioner cannot claim

parity with the co-accused as role of the petitioner is distinguishable from the role of the co-accused Khajan Singh, who has been granted bail. He further submits that in the statement of the prosecutrix recorded under Section 164 Cr.P.C., she has duly supported the case of the prosecution. He submits that now the prosecutrix and her father have been examined before the trial Court and have supported the case of the prosecution.

Heard.

The prosecutrix was 14½ of age at the time of occurrence. From the bare reading of the allegations in the FIR and that in the statement recorded under Section 164 Cr.P.C., it is apparent that the petitioner has placed an epic role in kidnapping the prosecutrix. At the time of kidnapping, it was the main accused Jagjit Singh and the petitioner, who were waiting on their motorcycle. Besides this the prosecutrix has stood with her earlier statement during her examination before the trial Court. The co-accused Khajan Singh, who has been granted bail, was 60 years of age and his role was different from that of the petitioner and no case for parity is made out. Out of total 19 prosecution witnesses, so far only 2 witnesses including the prosecutrix and her father have been examined, who have duly supported the case of the prosecution. In the overall facts and circumstances of the case, this Court finds that no case for the grant of bail to the petitioner is made out at this stage. Resultantly, the present petition is dismissed.

22.3.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

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