

**106+219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-27962-2022

Date of Decision: 19.12.2022

Vikash

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Deepak Goyal, Advocate
Mr. Mukesh Yadav, Advocate, for the petitioner.

Mr. Kirpal Singh Thakur, Asstt. Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

CRM-48224-2022

Allowed as prayed for. Annexures A-1 to A-3 are taken on record.

Main case

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.110 dated 22.03.2022, registered under Sections 363, 366-A IPC, at Police Station Kanina, District Mahendergarh.

Adumbrated facts of the case are that the present complaint was lodged before the Police by father of the victim, wherein, it was alleged that on 21.03.2022, at about 10:15 pm, his daughter (victim) who was 16 years of age, left home. It was suspected that a boy, namely, Vikas i.e. the petitioner who used to talk to her has enticed her away. Request was made to register the case and to take legal action against the culprit. On the basis of the complaint, a formal FIR was lodged and the investigation commenced. During the investigation, the victim was recovered on

28.03.2022. The Investigating Agency made an effort to conduct the medical test of the prosecutrix, however, she refused to undergo the same and thus, the same could not be conducted. However, she was produced before the learned Magistrate for recording her statement under Section 164 Cr.P.C. on 28.03.2022. The petitioner was arrested on the same date i.e. 28.03.2022. He approached the Court of learned Addl. Sessions Judge, Narnaul for grant of bail, who, after hearing the parties, declined the same vide order dated 09.05.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in this case. He has submitted that at the most from the reading of the allegations, it can be inferred that there was a consensual relationship of the petitioner and the prosecutrix. He has submitted that evidently from the allegations in the FIR, it is evident that the prosecutrix went missing from home on 21.03.2022 and she was recovered on 28.03.2022 i.e. after a week. He submits that there is nothing on record to show that in all these 7 days there was any type of coercion or threatening from the petitioner side. He has submitted that on the recovery of the prosecutrix, she was produced by the Investigating Agency before the learned Magistrate, wherein, she has emphatically deposed that she left her home on 21.03.2022 and went with Vikas without informing anyone. Thereafter, both of them went to Rajsathan, where they stayed after taking a room. She deposed that nothing happened to her and Vikas did nothing with her. To buttress his arguments, he submits that after the framing of charges, the learned trial Court has examined father, mother of the prosecutrix and prosecutrix herself as PW-1

to PW-3, respectively. He submits that all these material witnesses did not support the case of the prosecution and thus, were declared hostile. He submits that the petitioner has no criminal antecedents. He submits that in the overall facts and circumstances, it is apparent that the case of the prosecution is without any evidence against the petitioner, as all the material witnesses have not supported the case of the prosecution. He further submits that as the material witnesses already stand examined, the petitioner is not in a position to influence the prosecution witnesses and thus, he deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that there are specific allegations against the petitioner. He has submitted that even if it is presumed that the prosecutrix was a consenting party, the same would have no legal sanctity as the prosecutrix is minor. He submits that after elopement of the prosecutrix, both the petitioner and the prosecutrix were living together and they were recovered by the Investigating Agency after a week on 28.03.2022 from Rajasthan. However, he candidly acknowledges that the prosecutrix and her parents have not supported the case of the prosecution. He further submits that the out of total 11 prosecution witnesses, 6 witnesses have already been examined including the prosecutrix and her parents. He submits that as per the instructions from ASI Baramjit, the petitioner has no criminal antecedents.

Heard.

Evidently, the petitioner is behind bars since 28.03.2022. The prosecutrix and her parents have been duly examined by the trial Court and they have not supported the case of the prosecution. Even in the statement

recorded under Section 164 Cr.P.C., she has deposed that she left home voluntarily and remained with the petitioner of her own and both of them went to Rajasthan and stayed for about a week. There is nothing on record to show that the petitioner has any criminal antecedents. The veracity of the allegations would be evaluated by the trial Court only after appreciation of the complete evidence led by both the parties. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

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.

19.12.2022

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Whether Speaking/Reasoned :

Whether Reportable :

(RAJESH BHARDWAJ)

JUDGE

Yes/No

Yes/No