

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-28391 of 2022
Date of decision:03.08.2022

Karan

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. B.S.Bali, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in case FIR No.138 dated 23.11.2017 registered under Sections 363, 366-A, 427 of Indian Penal Code, 1860 (for short "IPC"), however, Section 376 IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 were added later on, at Police Station City Hoshiarpur, District Hoshiarpur (Annexure P-1).

Case of the prosecution is that FIR (Annexure P-1) has been registered on the statement of a mother of 15 year old school going girl (hereinafter referred to as "the prosecutrix") on the allegation that on 14.11.2017, when she was coming back from bank, alongwith her daughter and father-in-law, after he had withdrawn his pension, they were waylaid by Karan, present petitioner, who was accompanied by three friends and they

abducted the prosecutrix, who was carrying a purse with two mobile phones and Rs.10,000/- pension withdrawn by her father-in-law.

By referring to the agreement/compromise dated 19.08.2017 (Annexure P-2), counsel for the petitioner contends that the petitioner and the prosecutrix liked each other and they wanted to get married. Their families agreed and an agreement (Annexure P-2) was entered into on 19.08.2017. He submits that in November, 2017, the prosecutrix ran away with the petitioner and allegations in the FIR are false. He submits that they got married, stayed together for 7-8 months and petition (CRM-M-48227 of 2017) seeking protection was filed before this Court. He submits that after she went back to her paternal home under the pressure of her parents, her statement under Section 164 Cr.P.C., was recorded in support of the allegations in the FIR. He urges that the petitioner, who is in custody since 03.06.2018, deserves to be released on bail as both the prosecutrix as well as her mother-complainant have been examined.

Per contra, State counsel, upon instructions from ASI Nanak Singh, has opposed the petition and has submitted that nature of allegations levelled against the petitioner are grave and he is accused of sexually assaulting a minor. According to State counsel, besides the statement of the prosecutrix recorded before the Magistrate, even MLR shows that she has been sexually exploited. As per his instructions, 10 out of 26 prosecution witnesses have been examined.

Having considered the submission made counsel for the parties, but without commenting upon the merits or demerits of the arguments

addressed, keeping in view the fact that the petitioner has undergone custody of more than 04 years and 02 months and that the material prosecution witnesses have been examined, this Court is of the opinion that the petitioner would be entitled to be released on bail. The prosecution is yet to examine more than half of the witnesses and the trial is likely to take time to conclude. This is yet another factor which has weighed with this Court while ordering the release of the petitioner on bail.

Petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

August 03, 2022
savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>