

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(214)

CRM-M-31366-2021

Date of Decision: 11.05.2022

Jogga Singh

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Ashish Gupta, Advocate for the petitioner.

Ms. Sakshi Bakshi, A.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C praying for grant of regular bail to the petitioner in case FIR No.26 dated 17.2.2021 registered under sections 363, 366-A I.P.C (later on added sections 212, 376 IPC and section 6 of POCSO Act) at Police Station, City Kot Kapura, District Faridkot.

As per facts of the case, present FIR was lodged by Rajesh Kumar son of Om Parkash. The sum and substance of the allegations in the FIR is that the complainant had two daughters. The victim (name concealed) was younger one. On 16.2.2021 at about 8 PM in the evening his daughter i.e. the victim went away from home and she did not return. Despite their best efforts they did not get any information regarding her. They suspected that one Fateh Singh @ Golu, who had an evil eye on her, had allured away his daughter, who was 16 ½ years of age. FIR was lodged to take legal action against the culprit.

The investigation commenced and the victim was recovered on 9.4.2021. Her statement under Section 164 Cr.P.C was recorded on 10.4.2021 by JMIC, Faridkot. The petitioner was arrested on 15.4.2021. He

approached learned Sessions Judge, Faridkot for grant of bail, however, after hearing the parties, the same was declined vide order dated 10.5.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. It is submitted that petitioner is not even named in the FIR, however, during the investigation on some false and frivolous allegations he has been roped in. He submits that even from the allegations levelled subsequently against the petitioner the offence under POCSO Act is not made out, however, the petitioner has been implicated for the offence under Section 212 IPC. Counsel further submits that the victim eloped from her home on 16.2.2021 and she was recovered from the custody of the present petitioner on 9.4.2021. It is submitted that even in the statement recorded under Section 164 Cr.P.C the complicity of the petitioner was not established. Thereafter the victim was examined by the Trial Court as PW-2, wherein she did not support the case of the prosecution and on the request of P.P she was declared hostile. She disowned all her previous statements made qua the petitioner as well. Counsel submits that in the overall facts and circumstances of the case petitioner deserves to be granted bail.

On the other hand learned State counsel has strongly opposed the submissions made by counsel for petitioner and submits that there are specific allegations against the petitioner. She submits that victim is a minor and during investigation complicity of the petitioner was found to have been established. However, she submits that the complainant i.e. the father of the victim has supported the case of the prosecution. She candidly submits that victim herself has turned hostile before the Trial Court. It is

submitted that out of the total 28 prosecution witnesses 10 have already been examined including the material witnesses i.e. the victim and her father.

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

The victim is admittedly a minor. She eloped from her home on 16.2.2021 and was recovered after about 2 months i.e. on 9.4.2021. Petitioner was named in the FIR and even in the statement recorded under Section 164 Cr.P.C there was a hint regarding his involvement, however, his name cropped up in the case at the time of recording of supplementary statement of the victim. While being examined as PW-2 the victim has not supported the case of the prosecution. Out of the total 28 prosecution witnesses 10 have already been examined including the material witnesses i.e. complainant and the victim. There is nothing on record to show that petitioner has criminal antecedents or he has ever been involved in any such case. The veracity of the allegations levelled in the FIR would be assessed only after conclusion of the trial. In the overall facts and circumstances of the case, this Court finds that counsel for petitioner succeeds in making out a case for grant of bail to the petitioner.

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 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

11.05.2022

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