

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

(281)

CRR-851-2021(O&M)  
Date of Decision: 16.09.2022

Abdul Ali

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. J.S. Mohri, Advocate for the petitioner.

Mr. Kirpal Singh, A.A.G., Haryana.

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**RAJESH BHARDWAJ.J (Oral)**

**CRM-25385-2021**

Application is allowed as prayed for.

**Main Case**

The present revision petition has been filed impugning the order dated 24.5.2021 passed by learned Addl. Sessions Judge, Narnaul whereby bail application filed by the petitioner in case FIR No.61 dated 7.2.2020 under sections 363, 366-A and 120-B IPC (section 4 of POCSO Act added later on), registered at Police Station, City Narnaul, has been dismissed.

As per factual matrix, the FIR in question was lodged by the father of the prosecutrix, wherein it was alleged that his eldest daughter i.e. the prosecutrix (name concealed) was 17 years of age. On 7.2.2020 when he got up in the morning, he found his daughter missing. They tried to search her, however, failed in tracing her out. Thereafter, they suspected that Abdul Ali i.e. the present petitioner had enticed her away on the pretext

of marriage. They checked their belongings and found some gold and silver articles along with a cash of Rs.1 lakh missing from home. A request was made to lodge FIR and take legal action against the culprit.

The FIR was lodged and investigation commenced. During investigation both petitioner and prosecutrix were recovered on 24.2.2020. Prosecutrix was medically examined and produced before the learned Judicial Magistrate concerned for recording her statement under section 164 Cr.P.C. The petitioner was arrested on the same day i.e. on 24.2.2020. He approached the court of Addl. Sessions Judge, Narnaul for grant of bail, however, after hearing the parties, the same was declined vide order dated 24.5.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. He submits that petitioner being less than 18 years of age is a juvenile and his bail has been rejected by the learned Addl. Sessions Judge, Narnaul only in order to save him from psychological danger to his character. He submits that both prosecutrix and petitioner were in consensual relationship. He submits that there was no coercion on the part of the petitioner of enticing her away. He submits that the prosecutrix went missing from her house on 7.2.2020 and thereafter she was recovered on 24.2.2020. Counsel submits that during this period both petitioner and prosecutrix lived together in public places and travelled by public transports. It is further submitted that petitioner being a juvenile cannot be denied bail. He submits that as the prosecutrix has already been examined by the learned Trial Court, there is

no possibility of the petitioner influencing the material witnesses. Counsel submits that petitioner is a young boy, who is at the threshold of his life. Counsel submits that petitioner has no criminal antecedents and he deserves to be granted the benefit of bail.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner. He submits that even if it is assumed that the prosecutrix was a consenting party, still her consent has no legal sanctity as she was a minor at the time of occurrence. He submits that the prosecutrix has supported the case of prosecution in her statement recorded under section 164 Cr.P.C as well as while appearing as a prosecution witness before the learned Trial Court. It is submitted that out of total 21 prosecution witnesses, 5 have been examined including the prosecutrix. He further submits that as per information provided to him petitioner is not involved in any other case.

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

Admittedly, the prosecutrix went missing from her home on 7.2.2020 and thereafter she was recovered 24.2.2020. There is nothing on record to show that petitioner is likely to come in contact with some anti-social elements. Even otherwise looking at the tender age of the petitioner, this court cannot ignore the fact that he is behind bars for the last more than 2 years. There is nothing on record to show that petitioner has criminal antecedents. Besides this, the prosecutrix stands examined before the learned Trial Court and hence the possibility of the petitioner to influence the material witnesses survives no more. The veracity of the allegations

levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

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 the 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**

**16.09.2022**

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