

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

CRM-M-33446-2021
Date of Decision: 9.8.2022

Harpreet Singh @ Hanny

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Narinder S. Lucky, Advocate, for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

Mr. Rishma Verma, Advocate, for the complainant.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.67 dated 25.3.2021, registered under Sections 366, 120-B IPC (Section 376, 363 and 376-D IPC added lateron and Section 376-D and 120 IPC deleted lateron), at Police Station City Phagwara, District Kapurthala.

As per factual matrix of the case, the present complaint was made by Vikas Bajaj, father of the victim, wherein, it was alleged that his daughter was 18 years of age and she is a student of 10+2 class. She used to go for tuition from 1:00 pm to 4:00 pm. On 25.3.2021 as usual she went for tuition at about 1:00 pm, however, thereafter, he was informed telephonically that his daughter i.e the victim had gone to washroom, however, she did not return back. They searched her daughter, but failed to trace her out. He suspected that Harpreet Singh @ Honey who used to trouble his daughter in connivance and conspiracy with his parents has allured his daughter on the pretext of marriage. On the complaint, the FIR was registered to take legal action against the accused. After registration of

FIR, the investigation commenced. During the investigation, the victim was recovered on 3.4.2021 i.e. after about 9 days. The petitioner was arrested on the same date i.e. 3.4.2021. He approached the learned Addl. Sessions Judge Kapurthala for grant of bail, who, after hearing the parties, declined the same vide order dated 6.8.2021. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He has submitted that the petitioner and the prosecutrix both are of the age of the majority and they were in relationship with each other. He submits that by no stretch of imagination, it cannot be imagined that the petitioner had ever forced the prosecutrix or made any false promise to her, rather both decided to marry each other and they approached this Court seeking protection to life and liberty by way of filing CRWP-3141-2021, which came up for hearing on 31.3.2021, however, before the same could be decided, the petitioner was arrested. He has also placed on record the photographs, wherein, he asserted that both the petitioner and the prosecutrix being of the age of the majority had consensually married each other, but their relationship was not acceptable by the parents of the prosecutrix. He has submitted that it is on account of the same that the present FIR was lodged and the petitioner was roped in false and frivolous case. He submits that though the petitioner is facing trial in two other cases, however, he is on bail in those cases. He further submits that the prosecutrix has appeared before the trial Court as PW-1 and her examination-in-chief was recorded and thereafter, the prosecution has filed application under Section 319 Cr.P.C. for summoning

additional accused, however, the same was declined. He submits that thereafter, for about one year, the prosecutrix did not appear before the trial Court for her cross-examination. He submits that in view of the facts and circumstances, no offence under Section 376 IPC as alleged, is made out against the petitioner, hence, he deserves to be granted bail.

Learned counsel for the complainant has opposed the submissions made by learned counsel for the petitioner. She submits that the prosecutrix was compelled by the petitioner to accompany him but later on she somehow managed to save her life. She submits that she has supported the case of the prosecution in the statements recorded under Section 161 Cr.P.C. and Section 164 Cr.P.C. She further submits that the prosecutrix has also been examined by the trial Court and she has supported the case of the prosecution in her examination-in-chief. She submits that the petitioner does not deserve any leniency, hence, his prayer for bail be rejected.

On the other hand, learned State counsel has submitted that there are specific allegations against the petitioner. She submits that during the investigation, offence under Section 376-D was deleted and challan was presented against the petitioner under Section 376 IPC. She has submitted that the prosecutrix was examined and her examination-in-chief was recorded and thereafter, application under Section 319 Cr.P.C. was filed by the prosecution, however, cross-examination of the prosecutrix remains to be recorded. She also submits that as per the information, the petitioner is also accused in two other FIRs, however, he is on bail in those cases.

Heard.

Admittedly, the petitioner and the prosecutrix both are of the

age of the majority. As per the case of the prosecution, the prosecutrix went missing from her tuition class on 25.3.2021 and thereafter, she was recovered on 3.4.2021 i.e. after 9-10 days. As per the record, the petitioner and the prosecutrix filed petition for grant of protection before this Court. In the attending facts and circumstances whether the relationship between the petitioner and the prosecutrix was consensual or it was due to the coercion of the petitioner, is totally a debatable issue, which would be evaluated by the trial Court only on the appreciation of the evidence led by the parties before it. As per the submissions made before this Court, the prosecutrix had already recorded her examination-in-chief and thereafter, the prosecution filed application under Section 319 Cr.P.C., which is declined. 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 sufficient 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.

9.8.2022
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Whether Speaking/Reasoned :
Whether Reportable :

(RAJESH BHARDWAJ)
JUDGE

Yes/No
Yes/No