

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(212)

CRM-M-30325-2022
Date of Decision:20.12.2022

Dharamraj Paswan @ Dharamraj

--Petitioner

Versus

State of Punjab

--Respondent

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

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

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.107 dated 30.6.2021 under section 346 IPC (offence under sections 363, 366-A IPC were added later on vide G.D No.30 dated 19.8.2021), registered at Police Station, Division No.7, Ludhiana.

As per factual matrix, a complaint was lodged by Chander Bhan, wherein it was alleged that he was working as a labourer at Vardhman Thread Mill. He had 4 children out of which victim was his eldest daughter. On 22.6.2021 he and his wife left home at 8 AM and they returned home at 4 PM. His children told that his daughter i.e. the victim did not return from school. They tried to search her at every possible place but failed to trace her out. During the search he came to know that Dharamraj Paswan i.e. the present petitioner had enticed away her daughter. A request was made to take legal action against the culprit.

The FIR in question was lodged and investigation commenced. The victim was recovered on 18.9.2021 from Kanpur. She was produced before the learned Magistrate for recording her statement under Section 164 Cr.P.C and was also medically examined. The petitioner was arrested on 18.9.2021. He approached the learned Addl. Sessions Judge, Fast Track Court, Ludhiana for grant of bail, however, after hearing the parties, the same was declined vide order dated 31.5.2022. 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 by the father of the victim. He submits that petitioner and the prosecutrix were in consensual relationship. The victim went missing from her home on 22.6.2021 and thereafter she was recovered after about 3 months i.e. on 18.9.2021. It is submitted that in her statement recorded under section 164 Cr.P.C victim deposed that she left her home voluntarily with the petitioner and they performed marriage as well. It is further submitted that the relationship of petitioner and victim was not acceptable to the family of the victim and hence the present FIR was lodged. To strengthen her arguments counsel submits that victim has been examined as PW-2 by the learned Trial Court and in her deposition she has specifically stated that she left home on 22.6.2021 voluntarily with the petitioner and they performed marriage on 12.7.2022. Thereafter, they went to Kanpur from Delhi. In her cross-examination she submitted that she had given birth to a female child on 9.5.2021, who was born from the loins of the petitioner and presently she is residing with the family of the petitioner. Counsel submits

that in the facts and circumstances of the case petitioner deserves to be granted benefit of bail.

On the other hand, learned State counsel on instructions from ASI Mewa Ram submits that there are specific allegations against the petitioner. He submits that the victim went missing from her home and thereafter she was recovered from the company of the petitioner. He submits that even if it is assumed that the victim was a consenting party, her consent has no sanctity in the eyes of law, she being a minor at the time of occurrence. He further submits that in her statement recorded under section 164 Cr.P.C as well as while being examined as PW-2 victim has deposed that she left her home voluntarily with the petitioner and they performed marriage. It is submitted that out of the total 14 prosecution witnesses 3 already stand examined by the learned Trial Court. However, father of the victim has duly supported the case of prosecution. 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 victim left her home on 22.6.2021 and thereafter she was recovered after about 3 months i.e. on 18.9.2021 from the house of the petitioner at Kanpur. Thereafter she gave birth to a female child, who is from the loins of the petitioner. She is presently living with the family of the petitioner. Though, the victim may be minor at the time of occurrence, however, this court cannot ignore the fact that she remained with the petitioner for about 3 months and also gave birth to a female child

as well. There is nothing on record to show that petitioner has any criminal antecedents. 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

20.12.2022

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