

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

CRM-M-30464-2022

Date of Decision: 08.09.2022

Sukhwinder Kumar @ Munna

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Vivek Singla, Advocate, for the petitioner.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.286 dated 14.9.2021, registered under Sections 363, 366-A IPC, at Police Station City Faridkot, District Faridkot.

As per factual matrix of the case, the present complaint was made by the mother of the victim, wherein, it was alleged that she has four daughters and the youngest one is 17 years of age i.e. the victim (name concealed). On 10.9.2021 at around 7:30 a.m., she went to the school for studies but did not return. They started searching her, but could not find her. Lateron they came to know that Munna son of Ram Chandra (the petitioner) had enticed her away on the pretext of marriage. Request was made to register the FIR. On the basis of the complaint, the FIR was registered and investigation commenced. During the investigation, the petitioner and the prosecutrix were recovered on 2.10.2021 i.e. after about 22 days from the date, the prosecutrix went missing. She was produced before the learned Judicial Magistrate and her statement under Section 164 Cr.P.C. was recorded. The Investigating Agency tried to conduct the medico legal

examination of the victim, however, she refused to undergo the same and hence, the same could not be conducted. The petitioner was arrested on the same day i.e. 2.10.2021. He approached the Court of learned Addl. Sessions Judge, Faridkot for grant of bail, who, after hearing the parties, declined the same vide order dated 3.12.2021. 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 submits that the the prosecutrix went missing on 10.9.2021 and thereafter, she was recovered by the Police on 2.10.2021 and throughout this period the petitioner and the prosecutrix remained at public places and travelled by the public conveyance. However, there was no resistance whatsoever by the prosecutrix, which shows that the relationship between the petitioner and the prosecutrix was consensual. He has submitted that the statement of the prosecutrix was also recorded under Section 164 Cr.P.C., wherein she specifically deposed that on 10.9.2021, she went with the petitioner at her own will from school to Jaito and then from Jaito to Ferozepur, from where they went to Lucknow and thereafter, they came back to Moga. She deposed that her mother wanted to marry her with some other person against her wish, however, she was against the same and she wanted to live with Sukhwinder Kumar i.e. the petitioner. He has submitted that after her recovery, under the influence of her parents, she deposed against the petitioner while being examined as prosecution witness. He further submits that there is no corroborating evidence regarding allegations made by the complainant. He has submitted that the petitioner has no criminal

antecedents. He submits that the material witnesses in the case are already examined and thus, the petitioner is not in a position to influence the prosecution evidence. He submits that in the facts and circumstances of the case, the petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner. He submits that the prosecutrix was minor and even if she has consented, the same has no legal sanctity. He submits that out of total 28 prosecution witnesses, 17 witnesses already stand examined and the prosecutrix has supported the case of the prosecution while being examined as prosecution witness. However, he submits that the prosecutrix was recovered after 22 days from the date of her missing and in her statement recorded under Section 164 Cr.P.C., she deposed that she went with the petitioner of her own free will. As per the instructions received, the petitioner has no criminal record.

Heard.

As per the prosecution case, the prosecutrix remained with the petitioner for about 22 days. Throughout this period they remained at public places and travelled by public conveyance. There is nothing on record to show that the petitioner has any criminal antecedents. The prosecutrix in her statement under Section 164 Cr.P.C. deposed that she went with the petitioner with her own will and the petitioner had caused no coercion. The majority of the prosecution witnesses already stand examined and thus the possibility of the petitioner influencing the prosecution evidence nor more survives. Though the veracity of the allegations would be evaluated only after conclusion of the trial, however, this Court would refrain itself from

commenting anything on the merits of the case. Keeping in view the overall facts and circumstances of the case, 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.

08.09.2022		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No