

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

217

CRM-M-32613 of 2022
Date of decision:02.08.2022

Ajay

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. J.K.Singla, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in case FIR No.142 dated 13.10.2021 registered under Sections 363, 366-A of Indian Penal Code, 1860 (for short "IPC"), however, offence under Section 366-A IPC was deleted later on, vide DDR No.50 dated 07.07.2022 at Police Station City Budhlada, District Mansa (Annexure P-2).

Case of the prosecution is that FIR (Annexure P-2) has been registered on the statement of a father of 17 ½ year old girl (hereinafter referred to as "the prosecutrix") on the allegation that his daughter is missing from home. He suspects that Ajay, present petitioner, has allured her on the pretext of marriage.

By referring to the order dated 19.10.2021 (Annexure P-1), passed by this Court in CRWP No.9992 of 2021 titled as “Ajay and another Vs. State of Punjab and others”, counsel for the petitioner submits that prosecutrix left the paternal home of her own accord and has married the petitioner. He submits that they approached this Court by, way of the said petition, whereby, official respondent was directed to look into representation submitted by them. Still further, it is his case that prosecutrix, who is in third trimester of pregnancy, is residing with her in-laws. He submits that as the challan has been presented, petitioner deserves to be released on bail.

Per contra, State counsel has opposed the petition and has submitted that although the allegation in the FIR is that prosecutrix is a minor, but subsequently, on the basis of her statement recorded under Section 164 Cr.P.C., offence under Section 366-A IPC was deleted and Section 366 IPC was added. He has instructions to state that prosecutrix is residing at her matrimonial home. Still further, he submits that charge has been framed, though prosecution witnesses have not been examined. He has opposed the petition by submitting that the petitioner is involved in four cases under the Punjab Excise Act, 1914.

Controverting the argument of State counsel, counsel for the petitioner submits that no recovery has been effected from the petitioners in the cases, under the Punjab Excise Act, 1914 and he was arraigned as an accused on the basis of disclosure statement of the co-accused. Still further, he submits that the petitioner is on bail in the said cases.

Having considered the submissions made by counsel for the parties, this Court is *prima facie* of the view that the petitioner, who is in incarceration for the last more than 2½ months, would be entitled to be released on bail as the trial is at an initial stage and is likely to take time to conclude.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

August 02, 2022
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No