

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(215/A)

CRM-M-38241-2021(O&M)
Date of Decision: 08.08.2022

Bhupender Singh @ Feender

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. Subhash Kumar, Advocate for the petitioner.

Mr. Neeraj Poswal, A.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

CRM-26743-2022

Application is allowed as prayed for.

CRM-26745-2022

Application is allowed as prayed for.

CRM-26746-2022

Application is allowed as prayed for.

Statement of PW-2/victim is placed on record as Annexure A-

1.

Main Case

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.202 dated 16.6.2021 under sections 363, 366-A (subsequently added sections 420, 467, 468, 471, 201 and 120-B IPC) registered at Police Station, Sadar Dabwali, District Sirsa.

Succinctly the facts of the case are that the complainant, who is Massi (aunt) of the prosecutrix lodged the present FIR, wherein it was alleged that her daughter i.e. the prosecutrix was enticed away by a boy namely Raju son of Lalchand in the night at about 12 o'clock on 15.6.2021. It was alleged that her daughter was about 17 years of age. Consequently, the present FIR was lodged.

The investigation commenced. During investigation prosecutrix was recovered and her statement under section 164 Cr.P.C was recorded on 19.7.2021. Petitioner was arrested on 26.6.2021. He approached learned Addl. Sessions Judge, Sirsa for the grant of bail but the same was declined vide order dated 1.9.2021. Aggrieved by the same, petitioner has approached this Court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner was falsely implicated in the present FIR. He submits that the statement of the prosecutrix was recorded under section 164 Cr.P.C wherein she specifically deposed that she had performed marriage with accused Raj Kumar @ Raju in the court on 16.6.2021 with her own free will. However, in the meantime her Massi (aunt) lodged the present FIR. It was also deposed by the prosecutrix as PW-2 that accused Raj Kumar @ Raju did not commit anything wrong with her. Further she levelled no allegations against the present petitioner. It is submitted that parents of the prosecutrix have already died and therefore she was living with her Massi. As per the prosecution case itself age of the prosecutrix was about 17 years, whereas the prosecutrix appeared before the Trial Court and did not support the case of the prosecution. Rather she exonerated the main accused Raj

Kumar @ Raju and all the co-accused from their complicity in the case. She submitted that she is major and wants to live with her legally wedded husband Raj Kumar @ Raju. Counsel submits that the allegations against the present petitioner are of having forged the documents regarding age of prosecutrix and having helped the main accused in solemnizing marriage with the victim. But the prosecutrix deposed that they never prepared any false documents. Rather her real date of birth is 12.7.2002 but it was wrongly mentioned as 12.7.2004. She deposed that she did not know the accused Bhupender. Hence she was declared hostile. He submits that petitioner has no criminal antecedents and hence in view of the facts and circumstances, further incarceration of the petitioner is unwarranted and he deserves to be enlarged on bail.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner of forging the documents and thus he has played an active role in forging the documents and arranging the marriage of the prosecutrix, who was otherwise minor at the time of marriage. He submits that out of the 27 prosecution witnesses 2 including the complainant and prosecutrix have been examined by the Trial Court. He candidly submits that prosecutrix has not supported the case of prosecution and she has been declared hostile.

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

Petitioner is behind bars since 26.6.2021. Investigation is complete and the learned Trial Court is seized of the matter. Admittedly, allegations against the petitioner are regarding forging of documents and

helping the main accused in solemnizing marriage with the prosecutrix, who was stated to be minor at that time. In her statement recorded under section 164 Cr.P.C prosecutrix exonerated the main accused Raj Kumar @ Raju and deposed that she went with him with her own free will. Even in her examination before the Trial Court prosecutrix has not supported the case of prosecution and has been declared hostile. Even otherwise there is nothing on record to show that petitioner has criminal antecedents. Material witnesses already stands examined in this case. 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 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 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

08.08.2022

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