

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M No.39195 of 2021
Date of Decision: 16.08.2022

Ravi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Jai Bhagwan, Advocate,
for the petitioner.

Ms. Sakshi Bakshi, 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.254 dated 07.11.2019 under sections 363, 366-A, 376 & 120-B IPC and Sections 3, 4, & 17 of POCSO Act, registered at Police Station Sadar, Kharar.

As per facts of the case, the present FIR was lodged by uncle of the prosecutrix. The allegations made in the FIR are that his elder brother Ashok Bansal has two children. The elder one is son about 20 years of age and the younger daughter is about 16 years and 11 months old and she is studying in 10+1 class. About 4-5 months ago, the victim told her mother that Ravi son of Satpal Singh used to stalk her. On 05.11.2019 at about 12 noon Ravi was seen wondering in their society. He was trying to allure his niece to solemnize marriage with him. His niece was missing since then and hence they had approached the police with the complaint and request was made to take legal action against the culprits.

On the basis of the complaint, the present FIR was lodged and investigation commenced. During the investigation, the victim was recovered

on 12.11.2019. The petitioner was arrested on the same day. The victim was produced before the learned Magistrate for recording her statement under Section 164 Cr.P.C.

The petitioner approached the Special Court, SAS Nagar Mohali praying for grant of bail, however, after hearing the parties, the same was declined vide order dated 18.08.2021. Aggrieved by the same, the petitioner has approached this Court for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that the petitioner is a young boy of about 22 years of age. He submits that from the facts and circumstances of the case, it is apparent that the petitioner and victim were in consensual relationship. He submits that the prosecutrix is about 17 years of age. Both of them went away from the home on 05.11.2019 and they went to Bombay from Chandigarh. After remaining there about 4-5 days, they returned back and the prosecutrix joined her parents. However, the petitioner was arrested on 12.11.2019. He submits that the investigating agency manipulated the facts of the case. He submits that the relationship of the petitioner and the prosecutrix was not acceptable to the family members of the prosecutrix and hence with their pressure, she deposed against the petitioner in her statement recorded under Section 164 Cr.P.C. He submits that the petitioner has no criminal antecedents and there was no coercion whatsoever on the part of the petitioner in abducting the prosecutrix. He submits that during seven days while staying away from home, they travelled by public conveyance and remained in public places. Hence from the facts and circumstances of the case, it is apparent that there was no resistance whatsoever shown by the victim. He submits that the

petitioner is behind bars from the last about 2 years and 10 months. He also submits that the material witnesses already stand examined and hence there cannot be any apprehension against the petitioner of influencing the prosecution witnesses, as they already stand examined. He submits that the petitioner in these facts and circumstances deserves to be enlarged on bail.

On the other hand, learned State counsel has submitted that there are specific allegations against the petitioner. She submits that the prosecutrix is minor being less than 18 years of age. She submits that the prosecutrix has supported the case of the prosecution in her statement recorded under Section 164 Cr.P.C. as well as while appearing before the Court as the prosecution witness. She submits that out of 17 prosecution witnesses, 6 have already been examined including the victim. She submits that as per the information provided, the petitioner is not facing any other criminal case except the present one. She however submits that the petitioner is behind bars since 12.11.2019.

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

Admittedly, the petitioner and the prosecutrix remained together from 05.11.2019 to 12.11.2019. They travelled by public conveyance and remained in public places throughout, however, she never shown any resistance which shows that she was not under threat or pressure of the petitioner. However, she already stands examined by the trial Court. There is nothing on record showing that the petitioner has any criminal antecedents. As the material witnesses already stand examined even the apprehension of the petitioner of influencing the prosecution witnesses do not survive any more. The veracity of the allegations would be assessed by

the trial Court only on the conclusion of the trial on the basis of evidence to be led by the parties. Confining itself to the prayer for bail, this Court finds that the learned counsel for petitioner has been able to make out a case for the grant of bail to the petitioner.

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.

16.08.2022
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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No