

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

CRM-M-39623-2021

Date of Decision: 2.2.2022

Karamjit Kaur @ Madhu

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ashdeep Singh, Advocate, for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in the present petition is for grant of regular bail to the petitioner in a case FIR No.248 dated 26.12.2020, registered under Sections 363, 366, 376, 120-B IPC, Section 4 POCSO Act, 2012 (Sections 201, 366-A, 370 IPC and Sections 9, 10, 11 of the Prohibition of Child Marriage Act, 2006 added later on), at Police Station Khilchian, District Amritsar Rural.

As per the factual matrix of the case, the present FIR was lodged by the complainant Pargat Singh. It was alleged that he is working as a mason and has two children one son and one daughter. His daughter/victim (name concealed) is aged about 16-17 years and 8th class pass. On 25.11.2020, when he returned back home at 6:00 p.m., his minor daughter was not at home. He searched at his own level from relatives and at other places but failed to trace

her. It was alleged that some unknown person took her by alluring her on pretext of marriage. Request was made to register case and take legal action against the culprit. The investigation commenced and during investigation the victim was recovered and produced before the Illaqa Magistrate. Her statement under Section 164 Cr.P.C. was recorded, wherein, she deposed that she had a love affair with Aman. She further deposed that on 26.11.2020, she left the house with Aman from where she was taken to Amritsar. Aman took her to one Hotel and committed rape with her. Thereafter, she was left by him in Gurudwara Sahib and when she visited Sri Harminder Sahib, the petitioner Karamjit Kaur @ Madhu met her. She took the victim to her house and thereafter, she got the victim married to the co-accused Sukhbir Singh. Thereafter, the victim was raped by the said Sukhbir Singh also. It is found during investigation that the petitioner Karamjit Kaur @ Madhu forcibly got the victim married with Sukhbir Singh, who committed rape with her and it was also found during investigation that the petitioner sold the victim to the co-accused Sukhbir Singh for a sum of Rs.15,000/-. The petitioner was arrested on 30.01.2021. She approached the learned Additional Sessions Judge, Amritsar for grant of bail. After hearing the parties, the learned Court declined her prayer for grant of bail vide order dated 15.04.2021. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition.

Learned counsel for the petitioner vehemently contended that the petitioner has been falsely implicated in the present case and no offence as alleged is made out against the petitioner. He submits that from a bare perusal of the FIR, it is found that there is not even a whisper regarding the complicity of the petitioner. He submits that the petitioner is behind bars since 30.01.2021. To

buttress his arguments, he submits that the victim has been examined by the trial Court and she has not supported the case of the prosecution and she has been declared hostile. He submits that in the facts and circumstances of the case, the petitioner be enlarged on bail.

Learned State counsel submits that during investigation the victim was recovered and produced before the Illaqa Magistrate and her statement under Section 164 Cr.P.C. was recorded, wherein, the victim deposed that she had a love affair with Aman, and on 26.11.2020, she left the house with him from where she was taken to Amritsar. Aman took her to one Hotel and committed rape with her. Thereafter, she was left by him in Gurudwara Sahib and when she visited Sri Harminder Sahib, the petitioner Karamjit Kaur @ Madhu met her. She took the victim to her house and thereafter, she got the victim married to the co-accused Sukhbir Singh. Thereafter, the victim was raped by the said Sukhbir Singh also. It is found during the investigation that the petitioner Karamjit Kaur @ Madhu forcibly got the victim married with Sukhbir Singh, who committed rape with her. Further, during the investigation, it was also found that the petitioner sold the victim to the co-accused Sukhbir Singh for a sum of Rs.15,000/-. She was identified by the victim before the police and, thus, the allegations under Sections 9, 10 & 11 of the Prohibition of Child Marriage Act, 2006 were also added. Learned State counsel has also submitted that though the victim has been examined by the trial Court, however, she has been declared hostile qua co-accused Sukhbir Singh. So far as the petitioner is concerned, she has submitted that the victim had duly supported the case of the prosecution against the petitioner. She further submits that in all there are 22 prosecution witnesses out of which only 2 witnesses have been examined so far. Granting

bail to the petitioner at this stage would be pre-judicial to the ongoing trial.

Heard.

As per the law settled, the FIR is never treated as an encyclopedia and hence non-mentioning of the name of the petitioner in the FIR is of no consequences. During investigation, the complicity of the petitioner is prima facie established and as a result challan was presented against her. The allegations against the petitioner are found to be serious in nature. The victim has been examined, however, from the perusal of her testimony before the Court it is apparent that she has not supported the case of the prosecution qua the co-accused Sukhbir Singh. However, she supports the case of the prosecution qua the petitioner. There are in all 22 prosecution witnesses out of which only 2 witnesses have been examined so far. The trial is at an initial stage and granting bail to the petitioner at this stage may result in scuttling the ongoing trial as majority of the witnesses are yet to be examined by the trial Court. In the overall facts and circumstances of the case, this Court is of the opinion that the petitioner do not qualify to be granted bail at this stage, resultantly, the petition being devoid of any merit is hereby dismissed.

02.02.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

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