

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

CRM-M-36688-2022

Date of Decision: 31.10.2022

Gurwinder Singh @ Motu

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. D.P.S. Joura, Advocate, for the petitioner.

Mr. Harpreet Singh, Addl. Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

This is the second petition filed by the petitioner for grant of bail in a case FIR No.163 dated 4.12.2021, registered under Sections 363, 366-A IPC, at Police Station City Dhuri, District Sangrur.

As per facts of the case, the complaint was made by the mother of the victim, wherein, it was alleged that her daughter i.e. the victim is 15 years of age. On 4.12.2021 at about 10:30 am, her daughter went for attending the Parents Teacher Meeting of her son at Gurukul Scholl Janta Nagar, Dhuri, however, she did not return. They tried their level best to search her but failed to trace her out. Lateron, the complainant came to know that her daughter was enticed away by Gurwinder Singh @ Motu. Request was made to take legal action against the culprit. On the basis of the complaint, the FIR was registered and investigation commenced. During investigation, the victim was recovered by the Investigating Agency on 6.12.2021. She was produced before the learned Judicial Magistrate and her statement under Section 164 Cr.P.C. was recorded. The petitioner was arrested on the same day i.e. 6.12.2021. He approached the Court of learned

Addl. Sessions Judge, Sangrur for grant of bail, who, after hearing the parties, declined the same vide order dated 18.7.2022. 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 is a young boy of 20 years of age and has been implicated in this case maliciously. He submits that evidently the prosecutrix went missing on 4.12.2021 and recovered after two days i.e. on 6.12.2021. He submits that she was produced before the learned Judicial Magistrate and her statement under Section 164 Cr.P.C. was recorded, wherein, she deposed that she left the home at her own. To buttress his arguments, he submits that now the prosecutrix has been examined by the learned trial Court as PW-1, wherein, she deposed that her mother and maternal aunt and uncle used to beat her and they compelled her to marry a boy with whom she was not willing to marry. Her uncle and aunt levelled false allegations against her. She further deposed that false case has been got registered against the accused by her mother. He submits that on the basis of the statement made by the prosecutrix, she was declared hostile by the Court on request of learned Public Prosecutor. He submits that the petitioner has no criminal antecedents and even otherwise, the prosecutrix already stands examined and hence, the petitioner is not in a position to threaten the victim. He submits that the petitioner is behind bars since 6.12.2021 and in the overall facts and circumstances, he deserves to be granted bail.

On the other hand, learned State counsel has submitted that the victim in this case is minor and she went missing on 4.12.2021. He submits

that the FIR was lodged on the statement of the mother of the prosecutrix, wherein, she has specifically named the petitioner having enticed away her daughter. However, he submits that in the statements recorded under Section 164 Cr.P.C. and before the learned trial Court, the victim did not support the case of the prosecution. He submits that as per the instructions provided to him, the petitioner has no criminal antecedents. He has further submitted that out of total 14 prosecution witnesses 1 witness i.e. the victim already stands examined, who did not support the case of the prosecution.

Heard.

Evidently, the petitioner is behind bars since 6.12.2021. The prosecutrix went missing on 4.12.2021 and thereafter, she was recovered on 6.12.2021. Her statement under Section 164 Cr.P.C. was recorded, wherein she deposed that she left the home voluntarily. Thereafter, the prosecutrix was examined by the learned trial Court as PW-1 and she deposed that her mother, maternal aunt and uncle used to beat her and they compelled her to leave the home. She deposed that false case has been registered by her mother against the petitioner-accused. There is nothing on record to show that the petitioner has any criminal antecedents. The veracity of the allegations would be evaluated by the trial Court only after conclusion of the trial. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, 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 sufficiently 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.

31.10.2022		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No