

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(106+217)

CRM-M-37227-2022(O&M)
Date of Decision:20.12.2022

Rahul @ Golu

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Ravish Bansal, Advocate for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ.J (Oral)

CRM-49541-2022

Application is allowed as prayed for.

Annexures P-4 and P-7 are taken on record.

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.57 dated 9.3.2021 under sections 363, 366-A IPC, registered at Police Station, City Faridkot.

As per factual matrix, a complaint was lodged by the mother of the victim, wherein it was alleged that her daughter i.e. the victim was minor. Rahul @ Golu i.e. the present petitioner used to follow her daughter when she used to go to the school. She tried to stop him but he did not relent. On 8.3.2021 at about 6.30 AM she went to take medicines, however, when she returned, she found her minor daughter not present in the house. She tried to search her but could not trace her. It was suspected that Rahul

@ Golu had enticed her minor daughter on the promise of marriage. A request was made to take legal action against the culprit.

The FIR in question was lodged and investigation commenced. The victim was recovered on 13.3.2021. Thereafter on 18.3.2021 she was produced before the learned Magistrate for recording her statement under Section 164 Cr.P.C. She was taken to Guru Gobind Singh Medical College for her medical examination, however, she refused about any sexual assault and denied to be medically examined. The petitioner was arrested on 25.7.2021. He approached the learned Addl. Sessions Judge, Faridkot for grant of bail, however, after hearing the parties, the same was declined vide order dated 20.12.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. He submits that though the victim was about 17 years of age at the time of occurrence, however, she was recovered after about 5 days of the occurrence i.e. on 13.3.2021, however, she was produced before the Magistrate on 18.3.2021 i.e. after about 5 days of her recovery. It is submitted that in her statement recorded under section 164 Cr.P.C victim deposed that she called Rahul on phone, who came on motorcycle. Her mother was not at home. Then she went with Rahul on his motorcycle to Moga and on the next day they came back to Faridkot. On 13.3.2021 she asked Rahul to take her back home so that they could talk to their family members. Counsel submits that in her statement recorded under section 164 Cr.P.C victim has specifically deposed that the petitioner has no complicity whatsoever and she left home

voluntarily with the petitioner without any coercion from the petitioner's side. He submits that under the pressure of her parents she changed her statement before the learned Trial Court and gave a different version of the incident. Counsel submits that relationship between the victim and petitioner was consensual and the same was not acceptable to the parents of the victim and hence petitioner has been falsely implicated in the present case. It is submitted that as the material witnesses stand examined by the learned Trial Court, petitioner is not in a position to influence the witnesses. Counsel submits that petitioner has no criminal antecedents and he deserves to be granted benefit of bail.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner. He submits that even if it is assumed that the victim was a consenting party, her consent has no sanctity in the eyes of law as she was minor at the time of occurrence. He further submits that in her statement recorded under section 164 Cr.P.C victim has deposed that she left her home voluntarily, however, in her deposition before the learned Trial Court she has duly supported the case of the prosecution. It is submitted that out of the total 15 prosecution witnesses 3 already stand examined by the learned Trial Court. He further submits that as per information provided to him petitioner is not involved in any other case.

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

Admittedly, the victim went missing from her home on 8.3.2021 and thereafter she was recovered on 13.3.2021. She was produced

before the learned Magistrate for recording her statement under section 164 Cr.P.C on 18.3.2021. She deposed in her statement that she went with the petitioner voluntarily. During her stay of 5 days with the petitioner they remained in public places and there is nothing on record to show that there was any coercion on the part of the petitioner. There is nothing on record to show that petitioner has any criminal antecedents. The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. 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 to be 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 the 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

20.12.2022

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