

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

CRM-M-40741-2021

Date of decision : 10.05.2022

Harpreet Singh @ Nagi

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. J.K. Singla, Advocate
for the petitioner.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

Mr. Jagmeet Singh Moudgil, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.045 dated 06.07.2021, under Sections 363/366-A of IPC, 1860, registered at Police Station Sadar Budhlada, District Mansa.

As per the facts of the case, the present FIR was lodged by complainant Paramjit Kaur. As per the allegations, she is 40 years of age and married to Gurpiyar Singh. She has two children. The elder daughter whose date of birth is 16.02.2004 aged about 17 years 4 months is studying in 10+2 class. The younger one was 13 years and 8 months and studying in 8 Class. On 3rd July, 2021, all the family members slept after dinner. On 4th July, 2021 when they woke up, they found the victim daughter not present at home. They tried their best to search her, however, failed, it was suspected that Harpreet Singh had enticed away her daughter on the pretext of marriage in the intervening night of 3rd/4th July, 2021. The request was made to take the legal action against the culprits. On the basis of the statement, FIR was lodged and the investigation commenced. The victim was recovered on 21st July, 2021 and she was produced before the Magistrate for recording

her statement and her statement under Section 164 Cr.P.C. was recorded on 22nd July, 2021. The petitioner was arrested on 21st July, 2021. Thereafter, he approached the Court of learned Additional Sessions Judge, Mansa for grant of bail. After hearing counsel for the parties, learned Additional Sessions Judge, declined the same vide order dated 15th September, 2021. Aggrieved by the same, the petitioner is before this Court praying for grant of regular bail.

Learned counsel for the petitioner has contended that the petitioner has been falsely and frivolously implicated in this case. He has submitted that the prosecutrix is marginally less than 18 years of age and there was no coercion or compulsion from the side of the petitioner as alleged in the FIR. He submitted that the prosecutrix went away from her home on 4th July, 2021 and thereafter, she was recovered after about 17 days i.e. on 21st July, 2021. Her statement was recorded under Section 164 Cr.P.C. wherein she has not made any allegation against the petitioner rather, she deposed that she knew the petitioner from the last more than 1 ½ years and she was in love with the petitioner. She deposed that with her own free will and understanding of the nature of the consequences, she left her home on 3rd July, 2021 at 11:00 PM. Her parents along with the police officials brought her back to Police Station Budhlada. She deposed that the petitioner neither misbehaved with her nor established any physical relations with her. She deposed that her parents threatened her to depose as per their version against the accused and in case she did not obey, she would face the dire consequences. Her parents also threatened that they would involve the accused in some other false case. She went on to depose that though she was ready to undergo the medical examination however, the same was not conducted. Her uncle Balkar Singh and Bhupinder Singh had

made an understanding with some doctor to give a fake medical report for the offence of rape against the petitioner. She deposed that she had a threat of life and she may be sent to some institution/Nari Niketan till she attains the age of majority. He further vehemently contends that now the victim has been examined by the trial Court as PW-1 and again she has not supported the case of the prosecution and hence, she was declared hostile. Besides this, her parents were also examined. He submits that though, they were not declared hostile, however, their depositions were also not against the petitioner. Counsel for the petitioner submits that learned Additional Sessions Judge declined the bail primarily on the ground that there are chances of the petitioner of tampering with the witnesses in the ongoing trial. He submits that now the material witnesses already stand examined, out of which, the prosecutrix has not supported the case of the prosecution since beginning. He submits that sending the victim to Nari Niketan instead of giving her custody to the parents is self-speaking that the petitioner has been falsely implicated in this case. He submits that the petitioner deserves to be granted bail.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the prosecutrix is a minor and hence, her consent as alleged would be of no help to the petitioner. He further submits that parents of the prosecutrix have not been declared hostile, however, he candidly acknowledges that the prosecutrix has not supported the case of the prosecution. He has submitted that in all, there are 14 prosecution witnesses, out of which, 03 witnesses already examined which includes the prosecutrix and her parents.

I have heard learned counsel for the parties and perused the record.

Petitioner is behind bars since 21st July, 2021. The prosecutrix after having been eloped on 4th July, 2021 was recovered on 21st July, 2021. In her statement recorded under Section 164 Cr.P.C. she has deposed in an emphatical terms that she had a threat from her parents and she went with the petitioner with her own free will. Even while having been examined by the trial Court, she has not supported the case of the prosecution.

The trial of the case will take sufficient long time and no useful purpose will be served by keeping the petitioner in custody for such a long time. The veracity of the allegations would be finally assessed by the trial Court on the appreciation of the evidence to be produced before it. However, confining to the prayer made for the grant of bail, this Court is convinced that the counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds 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.

10.05.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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