

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

214

CRM-M No.43061 of 2021 (O & M)
Date of decision:19.05.2022

Khushpreet Singh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ajay Arora, Advocate for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

CRM-11010-2022

Although, prayer in the application is for pre-ponement of the hearing of the main case, but it has become infructuous as the main case is being taken up. However, testimony of material witnesses appended with the application, are taken on record as Annexures P-4 to P-6.

Application is disposed of.

Main Case

This is the first petition filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973, (for short “the Code) for grant of regular bail in case FIR No.33 dated 15.02.2021 registered for offences under Sections 363, 366-A, 376 (3), 506, 34 of IPC, 1860, and Section 04 of the Protection of Children from Sexual Offences Act, 2012, at Police Station Kalanwali, District Sirsa.

Version of the prosecution is that FIR has been registered on the statement of a father on the allegation that his daughter (for short “the prosecutrix”), whose date of birth is 01.01.2001 is missing from her home since 14.02.2021 and despite best efforts, he has not been able to locate her.

Counsel for the petitioner submits that the prosecutrix left her paternal home of her own volition and married the petitioner. He has placed reliance upon order dated 19.02.2021, Annexure P-3, passed by this Court in CRWP-1694-2021 to submit that after marriage, both of them had approached this Court for protection of their life and a direction was issued to the Senior Superintendent of Police, Mansa to look into their representation. Counsel urges that after the prosecutrix was recovered from the petitioner, her statement was recorded under Section 164 of the Code on 15.02.2021, wherein she has stated that she left her paternal home as her mother and step brother were harassing her. A reference has also been made by the counsel to the testimony of the prosecutrix, who mentioned her age as 21 years, as well as her parents, Annexures P-4 to P-6, to urge that all the star prosecution witnesses have not supported the case of the prosecution. He asserts that the petitioner, who has clean antecedents and is in custody since 25.04.2021, deserves to be enlarged on bail.

State counsel has filed status report by way of an affidavit of Deputy Superintendent of Police, Kalanwali, in compliance of order dated 31.03.2022 passed by this Court. By referring to the same, she submits that a second statement of the prosecutrix was recorded under

Section 164 of the Code on 06.04.2021, Annexure R-3, wherein she has alleged that she was enticed by the petitioner and married him. In particular, reference has been made by the State counsel to her statement, wherein she has alleged that the petitioner has sexually assaulted her. Upon instructions from SI Wazir Singh, State counsel has submitted that 03 out of 22 prosecution witnesses have been examined, though, she could not dispute the testimony of the prosecutrix and her parents.

Having considered the submissions made by counsel for the parties and considering the circumstances brought forth, this Court is of the opinion that complicity of the petitioner in the crime and age of the prosecutrix, would be a subject matter of trial. Petitioner, who is in incarceration for the last more than one year, would be entitled to be enlarged on bail as all the material witnesses have been examined and there is little possibility of an early conclusion of the trial.

Without adverting to the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing heavy bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

19.05.2022

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(SUVIR SEHGAL)
JUDGE

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