

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

CRM-M-37721-2022

Date of Decision: 15.11.2022

Paramjit Singh @ Pamma

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rajender Singh Duggal, Advocate, for the petitioner.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.211 dated 18.11.2020, registered under Sections 376, 506 IPC and Section 4 of POCSO Act, 2012, at Police Station Anaj Mandi, District Patiala.

As per factual matrix of the case, the present FIR was lodged by the victim herself (name concealed), wherein, it was alleged that she was 15 years of age. She was studying in 11th class at Government Senior Secondary School, Rajpura Colony. Her father Kishor Kumar used to work as private driver and her mother Baljit Kaur was house wife. Paramjit Singh @ Pamma i.e. the petitioner was so called brother of her mother. He normally used to visit their house. About 3 months ago, when she was alone at home, Paramjit Singh @ Pamma came there and finding her alone committed rape with her. She was threatened not to disclose anything about the same to anyone. Being afraid, she did not disclose anything about the same, however, later on due to her ill health, she disclosed the same to her mother. Request was made to register the FIR and to take legal action against the culprit. On registration of the FIR, the investigation commenced.

Statement of the prosecutrix was recorded under Section 164 Cr.P.C. The petitioner was arrested on 19.11.2020. He approached the Court of learned Addl. Sessions Judge, Patiala for grant of bail, who, after hearing the parties, declined the same vide order dated 07.05.2021. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in this case. He has submitted that the prosecution so far could not even lead some credible evidence regarding the age of the prosecutrix and thus, implication of the petitioner in heinous offence is without any evidence. He has submitted that at the most the relationship between the petitioner and the prosecutrix is consensual and as the relationship was not acceptable to the family of the prosecutrix, she was compelled to lodge the present FIR against the petitioner. He submits that though the prosecutrix lodged the FIR at the behest of her family members, but when the trial Court examined her as PW-1, she did not support the case of the prosecution. He submits that she was declared hostile by the Court on the request of learned Public Prosecutor. He has submitted that even otherwise, all the material witnesses have already been examined by the trial Court and thus, the petitioner is not in a position to influence the prosecution witnesses. He further submits that the petitioner has no criminal antecedents and hence, in the overall facts and circumstances of the case, he deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that the prosecutrix was minor and even if she is a consenting party, the

same has no legal sanctity. He submits that the statement of the prosecutrix, who herself is the author of the FIR, under Section 164 Cr.P.C. was recorded, where she supported the case of the prosecution, however, while being examined as PW-1 before the trial Court, she has not supported the case of the prosecution and thus, was declared hostile. He submits that as per the instructions provided to him, the petitioner has no criminal antecedents.

Heard.

Evidently, the petitioner is behind bars since 19.11.2020. Statement of the prosecutrix was recorded under Section 164 Cr.P.C., where she deposed against the petitioner, however, while being examined as PW-1 before the trial Court, she has not supported the case of the prosecution and thus, was declared hostile. A perusal of her statement would show that she deposed that she developed physical relationship with the accused once or twice with her consent at her residence. There is nothing on record showing that the petitioner has any criminal antecedents. The veracity of the allegations would be evaluated by the trial Court only after appreciation of the complete evidence led by both the parties. 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.

15.11.2022		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No