

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

CRM-M-37903-2022

Date of decision : 31.08.2022

Dhanna Bhagat Singh

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Karanjeet Singh Brar, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.23 dated 10.02.2021, under Sections 363, 366A, 376-D(A) of IPC and Section 6 of POCSO Act (Sections 120-B, 376-D(A) IPC added and Section 376-D IPC deleted later on), registered at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

As per the facts of the case, the present complaint was logged by the victim herself wherein, it was alleged that her date of birth is 22nd August, 2006. On 31st January, 2021 at about 02:30 PM when she was alone in the house then Jagjit Singh son of Jora Singh came to her house and told that her massi was waiting on the turn of Mukandewali road and she should go and make arrangement for her. Believing the same to be true, she went from her home and on reaching at the disclosed place, she found Jagjit Singh and Dhanna Singh i.e. the petitioner were standing on the motorcycle. They forcibly made her to sit on the motorcycle and took her away. Dhanna Singh returned back on motorcycle, however, Jagjit Singh allured her on the pretext of getting married. They boarded the bus thereafter. Thereafter, Jagjit Singh committed rape with her

against her consent. She was kept in the house of Khajan Singh and there was one woman namely, Balvir Kaur @ Taro. Her parents were informed about her, they came and took her back to the house. The request was made to take legal action against the accused persons. On the basis of the complaint, FIR was lodged and the investigation commenced. In all, 04 accused were named in the FIR. The petitioner was arrested on 11th February, 2021. He approached the Court of learned Additional Sessions Judge, Sri Muktsar Sahib praying for grant of bail. After hearing counsel for the parties, the same was declined by learned Additional Sessions Judge vide order dated 30.04.2021. The prosecutrix went missing on 31st January, 2021 and thereafter, she was recovered on 9th February, 2021.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case. He has submitted that the only allegation against the petitioner is that he was present with the motorcycle along with the main accused. He has further submitted that the allegations of kidnapping and rape with the prosecutrix are against the co-accused Jagjit Singh. However, the petitioner has no complicity in the same. He has submitted that the prosecutrix remained away from home for about nine days. It is apparent from the allegations in the FIR that throughout this period, she remained at the public places and travelled by public conveyance. Throughout this period, she was with co-accused Jagjit Singh. There is nothing on record to show that the prosecutrix had made any resistance regarding her kidnapping and alleged rape. He submits that even otherwise there are no allegations against the petitioner regarding the same. He further submits that in all there are 04 accused in this FIR, out of which, co-accused namely, Khajan Singh and Balveer

Kaur @ Taro in whose house the prosecutrix has alleged the rape have already been granted bail by this Court. He submits that the material witnesses including the prosecutrix already stands examined and hence, there is no possibility of the petitioner influencing the prosecution witnesses. He has submitted that the petitioner has no criminal antecedents as he has never been involved in any other case. He submits that in the facts and circumstances of this case, the petitioner deserves to be granted regular bail.

Learned State counsel, on the other hand, has opposed the submissions made by counsel for the petitioner. He submits that the prosecutrix in this case is minor being of the age of 14 ½ years. He has submitted that even if it is assumed that the prosecutrix is a consented party that has no legal sanctity as the consent of the minor is totally immaterial in the eyes of law. He has submitted that in all, there are 19 prosecution witnesses, out of which, 06 witnesses including the prosecutrix already stand examined. He submits that the prosecutrix has duly supported the case of the prosecution. He submits that as per the information, there is nothing on record that the petitioner has any criminal antecedents. However, he acknowledges that co-accused Khajan Singh and Balveer Kaur @ Taro have already been enlarged on bail.

I have heard counsel for the parties and perused the record. As per the arguments advanced, the prosecutrix remained away from home from 31st January, 2021 to 9th February, 2021 and during this period, she remained at the public places and travelled by public conveyance. The two of the co-accused namely, Khajan Singh and Balveer Kaur @ Taro already stand enlarged on bail. There is nothing on

record to show that the petitioner has any criminal antecedents. The allegations and the counter allegations would be assessed by the trial Court only after conclusion of the trial. The Court would refrain from commenting anything on the merits of the case.

The trial of the case will take sufficient long time. However, confining itself to the prayer made for bail, this Court finds that 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.

31.08.2022
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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