

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M- 42193-2021
Date of Decision: 16.05.2022

Baljinder Singh

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Harshit Jain, Advocate for the petitioner.

Ms. Ruchika Sabherwal, AAG, Punjab.

RAJESH BHARDWAJ, J.(ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.0143 dated 24.05.2020, under Sections 363, 366A, 376(2) (n) IPC and Section 6 of POCSO Act 2012, registered at Police Station Bhawanigarh, District Sangrur.

As per the factual matrix of the present case, the present FIR was lodged by Paramjeet Singh @ Pammi. It was alleged that he was the resident of Nidampur and his minor daughter i.e. the victim was 16 ½ years of age. About a month ago she came in contact with one Baljinder Singh @ Guli son of Satvir Singh resident of the same village i.e. of the complainant. The complainant has filed a complaint against accused and the matter was amicably resolved in the Panchayat. Thereafter, in the intervening night of 22/23.05.2020, when the family was sleeping, the victim was found missing.

Despite their best efforts they failed to trace her. On enquiring, it was found

that accused Baljinder Singh @ Guli was also missing. They suspected that the victim daughter has been allured by Baljinder Singh @ Guli. After lodging the FIR, investigation was commenced, victim was recovered on 14.06.2020 from the company of the petitioner. Thereafter, a statement under Section 164 Cr.P.C. was recorded on 16.06.2020 and the medical was also conducted. The petitioner was arrested on 14.06.2020. He approached Ld. Additional Sessions Judge Sangrur for the grant of bail. After hearing both the parties, the same was declined vide order dated 23.03.2021

Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. He submits that though the prosecutrix was less than 18 years of age, however, there was no coercion whatsoever on the part of the petitioner in alluring away with the victim. He submits that the relationship between the petitioner and the prosecutrix was not acceptable to the family members and hence, the father of the victim has lodged a false and frivolous FIR. He further submits that after the recovery, statement of the victim was recorded under Section 164 Cr.P.C., by the learned Magistrate, wherein, she categorically deposed that she left the home voluntarily on 23.05.2020 with the petitioner. He did not use any force against her. She further deposed that they did not have any physical relation. They inclined to come back, however, lockdown commenced from 1st June 2020 to 15th June 2020 and thereafter, her parents came to take them. She deposed that the boy was innocent. He submits that after the commencement of the recording of evidence, the victim has been examined by the trial Court as PW-2. She not having been supported the case of the

submits that the petitioner is behind bars for the last about two years and the material witnesses already stands examined. He further submits that after the recovery of the prosecutrix she was sent to Nari Niketan by the Court and thereafter, she appeared before the learned Additional Sessions Judge and deposed on 13.10.2021 that she wanted to reside with Sursati w/o of Satvir Singh i.e. mother of the petitioner. On the basis of her statement the custody was given to the mother of the petitioner by learned Additional Sessions Judge, Sangrur vide order dated 13.10.2021. Hence, he submits that the prosecutrix as on date is residing with the family of the petitioner. He submits that the petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel vehemently opposes the submissions made by learned counsel for the petitioner. However, she submits that the prosecutrix is less than 18 years of age and her consent as contended by the learned counsel for the petitioner would have no legal sanctity. She further submits that the prosecutrix has not supported the case of the prosecution, however, the complainant i.e. her father has not supported the case of the prosecution. She submits that out of total 18 prosecution witnesses 07 including the victim and the complainant have been examined.

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

The victim eloped with the petitioner on 23.05.2020 and thereafter, she was recovered on 14.06.2020. On 16.06.2020 her statement was recorded under Section 164 Cr.P.C., wherein she deposed that the petitioner is innocent and there was no coercion on the part of the petitioner when she went with him. At the time of her examination before the trial Court, she has not supported the case of the prosecution. Besides this, her custody has

show that the petitioner has earlier been involved in any other criminal case. Material witnesses already stands examined. Thus, there are no probabilities as such of the petitioner of tampering with the prosecution evidence before the Court. The petitioner is behind bar since 14.06.2020.

In the overall facts and circumstances of the case, it is apparent that the trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time. Keeping in view the abovesaid facts, this Court finds that learned counsel for the petitioner has succeeded 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.

(RAJESH BHARDWAJ)
JUDGE

16.05.2022
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No