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

CRM-M-39442-2022

Date of Decision: September 29, 2022

Harnam Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.A.K.Khunger, Advocate
for the petitioner.

Mr.Karunesh Kaushal, AAG, Punjab.

Mr.Karandeep S.Sidhu, Advocate
for the complainant.

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RAJESH BHARDWAJ, J.(ORAL)

Prayer in the present petition filed under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in a case FIR No.95, dated 10.07.2022, registered under Sections 363, 366-A, 120-B IPC, at Police Station Sadar, Jalalabad, District Fazilka.

As per facts of the case, the present FIR was lodged by father of the victim, namely Gurdeep Singh. Sum and substance of the allegations is that in the intervening night of 03/04.07.2022, victim went missing. They tried their level best to trace her out, however failed in the same. On enquiry, they suspected that daughter of the complainant has been enticed away by Dharampal Singh s/o Harnam Singh, who is running a cloth shop of readymade garments. It was alleged that Harnam Singh, Maya Bai wife of Harnam Singh, Vikki, Gurvinder Singh also helped Dharampal Singh in enticing away his daughter. The request was made to trace his daughter and

take the legal action against the culprits. FIR was lodged and investigation commenced. During investigation, the petitioner was arrested on 11.07.2022. The petitioner approached the learned Additional Sessions Judge, Fast Track Special Court (POCSO), Fazilka, praying for grant of bail, who after hearing the parties, declined the same vide its order dated 18.08.2022. 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 counsel for the petitioner that petitioner is an elderly person and has been victimized only being a father of Dharampal. He has submitted that though his son and the alleged victim are not traced, however, the petitioner has no role whatsoever in the alleged offence. He has submitted that the complainant has made him scapegoat only in order to create pressure on the family of the petitioner. He submits that the petitioner has no criminal antecedents and he has created no hurdles during the investigation and despite that he is languishing in jail. He submitted that the allegations are not only against his son Dharampal but against six accused in all, which on the face of it shows that it is a deliberated attempt of the complainant to rope in the maximum number of accused. He submits that the investigation is complete and further incarceration of the petitioner is totally unwarranted.

Counsel for the complainant has opposed the submissions made by counsel for the petitioner. He has submitted that the prosecutrix is 15 years of age and since the date of her missing, she and the accused Dharampal have not been traced out by the Investigating Agency till date.

Learned State counsel submits that the investigation in this case

has been completed, challan has been presented, however, both the

prosecutrix and accused Dharampal have not been recovered till date. He submits that as per instructions, the petitioner has no criminal antecedent as he has never been involved in any other offence.

Heard.

Evidently, the petitioner is the father of the main accused, Dharampal. There is nothing on record to show that the petitioner has any criminal antecedent. He is behind bars since 11.07.2022. Admittedly, the prosecutrix and accused Dharampal are not recovered till date and that is the responsibility of the Investigating Agency. The petitioner simply being father of Dharampal cannot be held vicariously liable so as to prolong his incarceration. Veracity of the allegations would be assessed only after complete of the trial. This court would refrain itself from commenting on the merits of the case. The trial would take sufficiently long time in 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 hereinabove shall be treated as an expression of opinion on the merits of the case.

September 29, 2022
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(RAJESH BHARDWAJ)
JUDGE

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |