

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(215)

CRM-M-40921-2022
Date of Decision: 05.12.2022

Sona Singh

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. G.S. Bawa, Advocate for the petitioner.

Mr. Karunesh Kaushal, A.A.G., Punjab.

Prosecutrix in person.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.31 dated 12.5.2020 under sections 376 I.P.C and section 4 of POCSO Act, registered at Police Station, Bhindi Saidan, District Amritsar.

As per factual matrix, a complaint was lodged by the mother of the prosecutrix, wherein it was alleged that she was a labourer by profession and had four children. About three years ago their neighbor namely Sona Singh used to tease her daughter on her way to school. On 5.5.2020 her daughter i.e. the victim came crying to her and on her asking she told that she woke up at 3 AM to go to bathroom. She heard noise of a stone pelted on the gate. She opened the gate and found Sona Singh i.e. the present petitioner standing outside the gate. He pressed her mouth and dragged her and thereafter he committed rape upon her. Due to the reputation of the family she did not report the matter to the family,

however, later on they went to lodge the complaint and a request was made to take legal action against the culprit.

On the basis of the complaint, present FIR was lodged and investigation commenced. Petitioner was arrested on 1.6.2022. He approached learned Addl. Sessions Judge, Fast Track Court, Amritsar for grant of bail, however, after hearing the parties, the same was declined vide order dated 22.8.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that though the prosecutrix was less than 18 years of age at the time of occurrence, however, she was in a consensual relationship with the petitioner. It is submitted that the FIR in question was lodged by the mother of the prosecutrix as they did not like the relationship between the petitioner and the prosecutrix. It is submitted that both of them approached this court by way of filing CRWP-3959-2020 seeking protection of their lives and liberty. This court vide order dated 19.6.2020 disposed of the petition. Counsel submits that thereafter relationship between the petitioner and prosecutrix continued and both of them were blessed with a son. He submits that mother of the prosecutrix lodged the present FIR without any rhyme and reason, whereas the prosecutrix has not only married with the petitioner but also they have been blessed with a child as well. It is submitted that prosecution has already examined the prosecutrix as PW-1 and she has not supported the case of prosecution and thus she was declared hostile. It is submitted that prosecutrix has no objection whatsoever with the relationship but due to the adamant behaviour of her parents she is in a

deep crisis along with her child. It is submitted that petitioner is a young boy, who has no criminal antecedents and he deserves to be granted bail.

On the other hand, learned State counsel on instructions from ASI Gurjit Singh has submitted that there are specific allegations against the petitioner. He submits that after registration of the FIR prosecutrix was produced before the learned Magistrate and her statement was recorded under section 164 Cr.P.C, wherein she deposed about the complicity of the petitioner, however, he candidly submits that while being examined before the learned Trial Court she has not supported the case of prosecution and thus has been declared hostile. It is submitted that petitioner has no criminal antecedents.

I have heard learned counsel for the parties at length and have gone through the records carefully.

The prosecutrix is present in person along with her child and has been duly identified by ASI Gurjit Singh. This court has interacted with her. She submits that she is married with the petitioner and they have a child out of the wedlock. She further submits that FIR in question was lodged by her mother without her consent. She submits that presently she is living with the child with some relatives and passing through severe hardships. There is nothing on record to show that petitioner has any criminal antecedents. Evidently prosecutrix has not supported the case of prosecution and has been declared hostile.

This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before

the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

05.12.2022
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No