

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(215)

CRM-M-40322-2022
Date of Decision: 09.09.2022

Vijay Kumar @ Vijay Gill

--Petitioner

Versus

State of Punjab & others

--Respondents

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

Present:- Mr. J.S. Jaidka, Advocate for the petitioner.

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

Respondents no.2 and 3 in person with
Mr. Harmanpreet Singh, Advocate.

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.158 dated 4.9.2019 under sections 363, 366-A IPC at Police Station, Sadar Kapurthala, District Kapurthala.

As per factual matrix, the FIR in question was lodged by respondent no.3 i.e. brother of the prosecutrix (respondent no.2), wherein it was alleged that his sister had been allured by Vijay Kumar i.e. the present petitioner on the pretext of marriage and a request was made to take legal action against the culprit.

The investigation commenced. The petitioner was arrested on 2.7.2022. The prosecutrix was recovered and her statement under section 164 Cr.P.C was recorded. Petitioner approached the court of learned Addl. Sessions Judge, Kapurthala for grant of bail, however, after hearing the parties, the same was declined vide order dated 16.7.2022.

Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. He submits that prosecutrix was less than 18 years of age but she was more than 17 years of age on the date of occurrence. He submits that both petitioner and prosecutrix were in consensual relationship. Thereafter both of them performed marriage and as on date they are parents of a child as well. It is submitted that their relationship was not acceptable to the family members of the prosecutrix and hence the present FIR was lodged on the basis of false and frivolous allegations. Counsel submits that prosecutrix did not support the case of prosecution in her statement recorded under section 164 Cr.P.C. He submits that petitioner has no criminal antecedents and he deserves to be granted the benefit of bail.

Learned counsel for the complainant has endorsed the submissions made by counsel for petitioner.

Respondent no.2 i.e. the prosecutrix and respondent no.3 (complainant) are present in person. The court has interacted with them. Respondent no.2 submits that she is duly married with the petitioner and they have a child as well. She submits that she has no grudge against the petitioner and the FIR in question was not registered by her. Respondent no.3 i.e. the complainant submits that a complaint was lodged by him against the petitioner, however, they have reconciled the matter and now he has no dispute with the petitioner.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner. He submits that prosecutrix was minor on the date of occurrence and there are allegations against the petitioner of having allured the prosecutrix in order to marry her. He submits that investigation is complete and the case is fixed for framing of charges. He further submits that as per information provided to him petitioner is not involved in any other case.

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

The allegations in the FIR pertain to enticing away the prosecutrix, however, both i.e. petitioner and prosecutrix are happily married and have been blessed with a child as well. Respondent no.3 i.e. the complainant has also submitted that the matter has been amicably resolved and he has no dispute with the petitioner. There is nothing on record to show that petitioner has any criminal antecedents. The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. 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 to be 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 the

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

09.09.2022

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