

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

207

CRM-M No.40446 of 2022 (O & M)
Date of decision:09.09.2022

Sunny Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sumeet Singh Brar, Advocate for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

SUVIR SEHGAL J. (ORAL)

This is the first petition filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No.167 dated 07.12.2021 registered under Sections 363, 366-A and 34 of IPC, 1860, at Police Station Sadar Malout, District Sri Mukatsar Sahib, Punjab, Annexure P-1.

Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of father of a 16 year old school going girl (for short - "the prosecutrix"), on the allegation that she is missing from her home since the morning of 02.12.2021. Complainant suspects that Sunny Singh (present petitioner) has allured her on the assurance of marriage and his friends, Kuldeep Singh and Bobby Singh, helped him in eloping with his daughter.

Counsel for the petitioner urges that the prosecutrix was recovered from a public street and in her statement recorded under Section 164 of Cr.P.C., she stated that she went with the petitioner of her own free will and that she wants to marry him, but her father is not agreeing to it. It is categoric case of the petitioner that there is no allegation of sexual assault against him.

By referring to the interim orders passed by the trial court from 21.04.2022 to 31.08.2022, counsel for the petitioner contends that despite repeated summons, neither the prosecutrix nor any prosecution witness has appeared for recording of the statements. Counsel asserts that the petitioner, who is in custody since 15.12.2021, deserves to be enlarged on bail.

Per Contra, State counsel, upon instructions, has opposed the petition and has submitted that the prosecutrix is a minor. Upon further instructions, he submits that she has declined to get herself medically examined and after recovery, her custody has been handed back to her father-complainant. As per his instructions, charge has been framed on 12.05.2022 and out of 26 prosecution witnesses, none could be examined as they have not appeared.

Having considered the submissions made by counsel for the parties, but without advertng to the merits or de-merits of the arguments addressed, this Court is *prima facie* of the view that complicity of the petitioner in the offence would remain controvertible before the trial court and the petitioner, who is in custody for the last almost nine months would be entitled to be enlarged on bail.

Petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

09.09.2022
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No