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

**CRM-M-44678-2021 (O&M)**

**Date of decision : 26.07.2022**

**Vinod Kumar**

**.....Petitioner**

**versus**

**State of Haryana**

**..... Respondent**

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

**\*\*\***

Present :- Mr. B.S. Mamli, Advocate  
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

**\*\*\***

**RAJESH BHARDWAJ, J. (Oral)**

**CRM-23194-2022**

Application is allowed as prayed for.

Annexure A-1 is taken on record.

**CRM-M-44678-2021**

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.12 dated 24.01.2021, under Sections 363, 366, 344 and 368 of IPC, registered at Police Station Bhattu Kalan, District Fatehabad.

As per facts of the case, the complaint was lodged with police by the mother of the victim wherein, it was alleged that on 24.01.2021 at about 3-4 AM her daughter-victim (name concealed) who is 17 years of age had gone out without informing her. She had suspicion that Vinod Kumar son of Mahabir Bishnoi had influenced her daughter and taken her away. She had no idea about her whereabouts. On the basis of the same, the FIR was registered and the investigation commenced.

During investigation, the victim was recovered on 13.07.2021. She was

produced before the Magistrate on 14.07.2021 her statement under Section 164 Cr.P.C. was recorded. The petitioner was arrested on 19.07.2021. He approached the Court of learned Additional Sessions Judge, Fatehabad praying for grant of bail. After hearing counsel for the parties, the same was declined by learned Additional Sessions Judge vide his order dated 05.10.2021. Aggrieved by the same, the petitioner is before this Court for grant of regular bail.

It has been contended by counsel for the petitioner that the petitioner has been falsely and frivolously implicated in this case. He submits that the prosecutrix just being below 18 years of age, petitioner has been implicated in this case. He submits that as per the case of the prosecution, the petitioner and the prosecutrix remained together for about five months and the victim was recovered on 13.07.2021. He submits that her statement was recorded under Section 164 Cr.P.C. wherein the victim deposed that she left home with Vinod Kumar i.e. the petitioner about five months ago. They lived together and four days ago he had left her on the way of Rajasthan. She deposed that neither her family nor she wanted to take any action. After completion of the investigation, challan was presented, charges were framed and the prosecutrix-victim was examined by the trial Court as PW-1. He submits that the victim has not supported the case of the prosecution. He also submits that the complainant i.e. the mother of the victim is also examined by the trial Court on 25.07.2022 and she has also not supported the case of the prosecution. He submits that the petitioner has no criminal antecedents and since beginning the victim has not supported the case of the prosecution therefore, the incarceration of the petitioner is totally

unwarranted. He submits that even otherwise, the material witnesses already stand examined and hence, there cannot be any apprehension projected by the prosecution on the part of the petitioner for tampering with the ongoing evidence.

Learned State counsel submits that the prosecutrix is minor being less than 18 years of age and even if she is consenting party, her consent has no legal sanctity. However, he candidly acknowledges that the prosecutrix and the complainant have not supported the case of the prosecutrix. He also endorse that in the statement recorded under Section 164 Cr.P.C., the prosecutrix did not support the case of the prosecution.

Heard.

After hearing counsel for the parties and perusing the record, it is apparent that the petitioner and the prosecutrix remained together for about five months. As per her deposition, they went to Rajasthan and thus, throughout this period, they remained at different places. While recording statement under Section 164 Cr.P.C., the prosecutrix deposed that she had left her home with the petitioner. While entering into the witness box, she again did not support the case of the prosecution rather, she deposed that on 24.01.2021 at about 04:00 PM, she left home alone to visit various different places in Rajasthan. She further deposed that she did not know the accused present in the Court. Hence, on the request of learned APP, she was declared hostile. There is nothing on record showing that the petitioner has any criminal antecedents. The material witnesses already stand examined.

The veracity of the allegations would be assessed by the trial Court after conclusion of the trial. The trial of the case will take sufficient

long time and no useful purpose will be served by keeping the petitioner in custody for such a long time. However, confining to the prayer made for the grant of bail, this Court is convinced that the counsel for the petitioner succeeds 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 her 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.

26.07.2022  
*m. sharma*

( RAJESH BHARDWAJ )  
JUDGE

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |