

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

CRM-M-43077-2022

Date of Decision: 30.11.2022

Karan Sharma

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Bhisham Kumar Majoka, Advocate, for the petitioner.

Mr. Kirpal Singh Thakur, Asstt. Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.139 dated 06.04.2022, registered under Sections 363, 366 IPC and Section 6 of POCSO Act, 2012, at Police Station Badshahpur, District Gurugram.

As per factual matrix of the case, the present FIR was lodged by the father of the victim, wherein, it was alleged that his daughter i.e. the victim was studying in 11th class. On 05.04.2022, she went to school for appearing in the exam. However, thereafter she did not return home. It was alleged that his daughter was 18 years of age and she be traced. On the basis of the statement of the father of the victim, the FIR was lodged and investigation commenced. During investigation, the victim was recovered on 15.04.2022 from Hathras (UP) and medically examined. The victim was produced before the learned Judicial Magistrate for recording her statement under Section 164 Cr.P.C. The petitioner was arrested on 15.04.2022. He approached the Court of learned Additional Sessions Judge, Fast Track Special Court under POCSO Act, 2012, Gurugram for grant of bail, who, after hearing the parties, declined the same vide order dated 13.07.2022.

Aggrieved by the same, the petitioner has approached this Court by way of

filing the present petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that both the petitioner and the prosecutrix were in consensual relationship and age of the prosecutrix as per the allegations made by her father was about 18 years. He submits that relationship between the petitioner and the prosecutrix was not acceptable to the family of the prosecutrix and hence, the petitioner was falsely implicated in this case. He has submitted that the prosecutrix went missing from home on 05.04.2022 and thereafter, she was recovered after 10 days on 15.04.2022 from Hathras (UP). He has submitted that during this period they have stayed in public places and travelled by public conveyances and there is nothing on record to show that there was any coercion by the petitioner on the prosecutrix. He submits that the prosecutrix has been examined by the learned trial Court as PW-1 and during her cross-examination, she has duly admitted that she had consensual relationship with the petitioner. He has submitted that to the suggestions given by the defence counsel, she had specifically deposed that it was correct that she had solemnized marriage with the accused in the Court and she was not talking to her parents being angry with them. She further deposed that she came back to her home with her own wish. She also deposed during her cross-examination that accused Karan was her friend from the last three years and she was in communication with Karan on regular basis on telephone. He has submitted that the petitioner has no criminal antecedents and from the facts and circumstances of the case, it is apparent that both are in consensual relationship, however, the petitioner has been implicated in this case only for reason that the family of the prosecutrix has not accepted their relationship. He submits that the

prosecutrix has already been examined and hence, the petitioner is not in a position to influence the prosecution witnesses. He submits that even the ocular version of the prosecutrix is not medically corroborated. He further submits that in view of the overall facts and circumstances of the case, the petitioner deserves to be granted bail.

On the other hand, learned State counsel on instructions from PSI Pooja has submitted that the prosecutrix was minor and she has specifically deposed against the petitioner. He submits that challan is presented and charges are also framed in this case, however, majority of the witnesses is yet to be examined. He further submits that as per information received, the petitioner has no criminal antecedents.

Heard.

Evidently, the prosecutrix went missing from home on 05.04.2022 and she was recovered from Hathras (UP) on 15.04.2022 i.e. 10 days thereafter. During this period both of them remained in public places and travelled by public conveyances. The ocular version of the prosecutrix is not medically corroborated. During the cross-examination, the prosecutrix deposed that she has solemnized marriage with the accused in the Court. There is nothing on record showing that the petitioner has any criminal antecedents. The veracity of the allegations would be evaluated by the trial Court only after appreciation of the complete evidence led by both the parties. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for 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 herein shall be treated as an expression of opinion on the merits of the case.

30.11.2022		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No