

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(219)

CRM-M-41262-2022

Date of Decision: 14.09.2022

Harjinder Singh @ Billa

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. Taran Goyal, Advocate with
Mr. Umang Goyal, Advocate for the petitioner.

Mr. B.S.Virk, DAG, Haryana.

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.302, dated 13.03.2022 registered under sections 363 and 366-A of the Indian Penal Code, 1860, at Police Station Shahabad, District Kurukshetra.

As per factual matrix, the FIR in question was lodged by father of the victim wherein it was alleged that one of his daughter i.e. victim(name concealed), whose date of birth is 29.08.2006, in the intervening night of 12/13 March, 2022, she went missing. They tried to search her however failed to trace her out. Thereafter, he came to know that one Harjinder Singh @ Billa(petitioner herein) had allured his minor daughter. A request was made to register the FIR and take legal action against the culprit/accused.

During investigation, the petitioner and the victim/prosecutrix were recovered by the police from Ambala Railway Station on 16.03.2022. She was produced before the learned Area Magistrate and her statement under Section 164 Cr.P.C. was also got recorded on the same day i.e. on

16.03.2022. The petitioner was also arrested on the same day.

He approached the learned Fast Track Special Court (to try the offences of Rape and under POCSO Act), Kurukshetra, for grant of bail, however, after hearing both sides, the Fast Track Special Court, Kurukshetra, declined the same vide her order dated 16.08.2022. 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 this case. He has submitted that as per the allegations of the victim/prosecutrix left her house on 12.03.2022 and, thereafter, she was recovered by the police on 16.03.2022 and during this period, both petitioner and prosecutrix stayed in public places and travelled by public conveyance and there is no iota of evidence regarding any coercion on the part of the petitioner.

Learned counsel further contends that statement of the prosecutrix under Section 164 Cr.P.C. was recorded before the learned Area Magistrate wherein she has stated that she left her home of her own free will and consent and the petitioner has not committed any wrong act with her. She further deposed that she was in consensual relationship with the petitioner and wanted to marry him.

Learned counsel for the petitioner also submitted that as the relationship was not accepted by the parents of the prosecutrix, so the FIR on the basis of the concocted allegation was lodged by the father of the prosecutrix. He submits that during the course of trial, the prosecutrix and her father have been examined by the learned Trial Court as PW-1 and PW-2 respectively and they have not supported the case of the prosecution wherein the prosecutrix has submitted that she went to Patiala with the

petitioner/accused willingly. Her father also deposed that he did not know how the victim left home.

Learned counsel has also submitted that from the statement made by both the material witnesses, the prosecution has no credible evidence to support the allegations levelled against him. He has submitted that as the material witnesses already stand examined, the petitioner is not in a position to influence them. Therefore, he submits that the petitioner deserves to be enlarged on bail.

Learned State counsel, on the other hand, submits that the prosecutrix in this case is minor and there are specific allegations against the petitioners. He further submits that even if the prosecutrix was a consenting party but her consent has no legal sanctity in the eyes of law. He further submits that the material witnesses already stand examined and as on date, out of total 09 prosecution witnesses, 04 have been examined so far. He also submits that as per information provided to him, petitioner has no criminal antecedents.

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

Admittedly, the prosecutrix left her home on 12.03.2022 and, thereafter she was recovered along with the petitioner by the police from the Railway Station, Ambala on 16.03.2022. In her statement recorded under Section 164 Cr.P.C., she deposed that she willingly left her home with the petitioner and he had not committed any wrong act with her. She also submitted that she was in consensual relationship with the petitioner and wanted to marry him. In her examination before the Trial Court, she has not

prosecutrix has not deposed anything incriminating against the petitioner. Moreover, there is nothing on record to show that the 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. Trial Court/Duty Magistrate is directed to release the petitioner on his furnishing two sureties. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

14.09.2022

Anjal*

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