

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

CRM-M-53411-2021

Date of Decision: 06.01.2022

Pawan Kumar

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vikram Singh, Advocate, for the petitioner.

Mr. Vishal Kashyap, Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.609 dated 2.9.2020, registered under Sections 354, 34, 323 IPC and Section 10 of Prevention of Children from Sexual Offences Act, 2012, at Police Station City Rohtak, District Rohtak.

As per factual matrix of the case, the FIR in question was registered by Minakshi Murti, mother of the victim. It was alleged that her husband, namely, Pawan is a drunkard and usually abused and gave beatings to her. On 1.9.2020 at about 9:00 pm, her husband came drunk and gave beatings to her and her children. It was alleged that both her husband Pawan and his friend Vinod were drinking and they entered in the room, where her minor daughter i.e. the victim was sleeping and committed the offence as alleged. Her daughter, who is 12 years of age started crying and thereafter, she was rescued by breaking the door. The FIR was lodged with a prayer to take legal action against the culprits. The investigation

commenced and the petitioner was arrested on 2.9.2020. He approached the learned Additional Sessions Judge, Rohtak for grant of bail, who after hearing the parties, declined the same vide its order dated 20.8.2021. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that the petitioner is the father of the victim and has been deliberately involved in the present case. He submits that the false implication of the petitioner is on account of the family dispute and not as alleged in the FIR. He submits that the false implication of the petitioner is further strengthened from the fact that now the victim and the mother of the victim have been examined by the trial Court as PW-1 and PW-2 respectively. The copy of the same has been appended with the petition. He has drawn the attention of the Court to the same, wherein the victim and the author of the FIR i.e. mother of the victim have not supported the case of the prosecution and on request of the learned Public Prosecutor, they were declared hostile. The victim has deposed before the trial Court that her father has not done anything wrong with her. On the similar lines is the statement of the mother of the victim, who has been examined as PW-2 and has been declared hostile. Learned counsel for the petitioner submits that both the material witnesses have not supported the case of the prosecution, hence, further incarceration of the petitioner is totally unwarranted.

Learned State counsel, on instructions from ASI Rekha, has vehemently opposed the submissions made by learned counsel for the petitioner and submitted that the victim is 12 years of age and the petitioner is the father of the victim. However, he candidly acknowledges that both the

victim and the the mother of the victim has not supported the case of the prosecution. He submits that in all there are 14 prosecution witnesses, out of which only 2 witnesses have been examined so far.

Heard.

The petitioner is behind bars since 2.9.2020. Both the material witnesses i.e. the victim and the mother of the victim admittedly have not supported the case of the prosecution. Out of totally 14 prosecution witnesses, only 2 witnesses have been examined so far. The veracity of the allegations would be evaluated by the trial Court only after conclusion of the trial. The trial of the case will take sufficiently long time and no useful purpose will be served by keeping the petitioner in custody for such a long time. In the overall facts and circumstances of the case, I am of the opinion that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. 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.

06.01.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

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