

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

CRM-M-48822-2022 (O&M)

Date of decision : 28.10.2022

Harpreet Singh @ Happy

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.8 dated 20.01.2021, under Sections 363, 366-A & 34 of IPC (Section 376 of IPC & Sections 3 and 4 of POCSO Act), registered at Police Station Sadar Batala, Police District Batala, District Gurdaspur.

As per the facts of the case, the present FIR was lodged by father of the victim. The sum and substance of the allegations in the FIR is that his minor daughter (name concealed) whose date of birth is 03.05.2004 was studying in 10+2 class. She had friendly relations with Sahibjeet Singh @ Happy i.e. the petitioner. The relationship was objected by him and it was brought to the notice of the family of the accused. Despite that, no action was taken by his family rather, they instigated their son to marry with the victim. On 10.01.2021 when the family was sleeping, they found his victim daughter missing from home. They tried to search but failed in tracing her out. They came to know that one Davinder Singh at about 2:30 AM in the night, saw Narinder Kaur,

her son-in-law Sarabjeet Singh @ Mani and Sahibjeet Singh along with his daughter were going on two separate motorcycle. They requested the family of Sahibjeet Singh to return their daughter but no action has been taken. Hence, the complaint was lodged to the police for taking legal action against the accused. On the basis of the complaint, the FIR was lodged and the investigation commenced. During investigation, both the accused and the victim were recovered by the police on 25.01.2021. The petitioner was arrested and the victim was medically examined and produced before the Magistrate on 27.01.2021 for recording her statement under Section 164 Cr.P.C. The petitioner approached the Court of learned Additional Sessions Judge, Gurdaspur praying for grant of bail under Section 439 Cr.P.C. However, after hearing both the sides, learned Additional Sessions Judge, Gurdaspur declined the same vide his order dated 05.04.2022. Aggrieved by the same, the petitioner is before this Court praying for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He has submitted that from the perusal of the allegations in the FIR, it is apparent that both the petitioner and the victim were in consensual relationship. However, the relationship was not acceptable to the family of the victim and hence, the FIR was lodged against the petitioner. He submits that the victim went missing from home on 10.01.2021 and thereafter, she was recovered on 25.01.2021 i.e. after about 15 days. He has submitted that there is nothing on record to show that the victim has made any resistance to the same during this period. He submits that once the prosecutrix was recovered, she was compelled to depose against the petitioner and hence,

she has given the statement against the petitioner under compulsion. He submits that the petitioner has no criminal antecedents as he has never been involved in any other case. He further submits that even otherwise, all the material witnesses have been examined by the prosecution and if the petitioner is enlarged on bail, there is no apprehension whatsoever that he will influence the prosecution witnesses. He has seriously disputed the age of the victim.

Learned State counsel, on the other hand, has submitted that the victim is less than 18 years of age in accordance with entry of her date of birth in her matriculation certificate. He submits that she remained in the company of the petitioner for about 15 days and on her recovery, she was medically examined and her statement was also recorded under Section 164 Cr.P.C. He submits that the prosecutrix/victim made specific allegations against the petitioner. He further submits that while appearing as the prosecution witnesses before the trial Court, she has stood by her statement and supported the case of the prosecution. However, he submits that out of 17 prosecution witnesses, 10 witnesses already stand examined including the complainant and the victim. He has submitted that as per the instructions, the petitioner is not involved in any other case except the present one.

I have heard counsel for the parties and perused the record.

Evidently, the prosecutrix went missing from home on 10.01.2021 and was recovered on 25.01.2021. She was thereafter medically examined and her statement was also recorded under Section 164 Cr.P.C. The petitioner is behind bars from 25.01.2021. Out of 17 prosecution witnesses, 10 witnesses already stand examined including the

complainant and the victim. There is nothing on record to show that the petitioner has any criminal antecedents. There are allegations in the FIR by father that there were friendly relations between the petitioner and the victim which were not acceptable to them. The veracity of the allegations would be assessed by the trial Court on appreciation of the evidences led by both the parties. The Court would refrain from commenting anything on the merits of the case. However, in the overall facts and circumstances of the case, the Court is of the opinion that the material witnesses already stand examined and the apprehension that the petitioner would influence the prosecutrix or the complainant do not survive any more.

The trial of the case will take sufficient long time. However, confining itself to the prayer made for bail, this Court finds that 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 his 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.

(RAJESH BHARDWAJ)
JUDGE

28.10.2022
m. sharma

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