

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

CRM-M-49191-2022

Date of Decision: 31.10.2022

Harpal Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. R.S. Sidhu, Advocate for
Mr. Avneet Kaur, Advocate, for the petitioner.
Mr. Harpreet Singh, Addl. Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.18 dated 29.01.2022, registered under Sections 363, 366-A IPC (Sections 376 & 120-B IPC and Section 6 of POCSO Act added lateron), at Police Station City Sri Muktsar Sahib, District Sri Muktsar Sahib.

As per facts of the case, the complaint was made by the father of the victim, wherein, it was alleged that he has five children and his daughter i.e. the victim is about 17½ years of age. On 27.01.2022, the complainant alongwith his wife and the victim-daughter went to Sri Muktsar Sahib for watching Mela. In the crowd, his daughter went missing. They tried their level best to trace her, but failed to trace her out. It was suspected that Harpal Singh son of Jasvir Singh, who earlier also used to talk with his daughter had enticed away his minor daughter on the pretext of marriage. Request was made to take legal action against the culprit. On the basis of the complaint, the FIR was registered and investigation

commenced. The victim was recovered by the Police on 14.2.2022 and she was produced before the learned Judicial Magistrate for recording her statement under Section 164 Cr.P.C. The petitioner was also arrested on the same day i.e. 14.2.2022. He approached the Court of learned Addl. Sessions Judge, Sri Muktsar Sahib for grant of bail, who, after hearing the parties, declined the same vide order dated 4.10.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in this case. He has submitted that the petitioner and the prosecutrix were in consensual relationship, which was not acceptable to the family members of the victim. He submits that the victim admittedly went missing on 27.01.2022 and she was recovered after about 17 days i.e. on 14.02.2022. He has submitted that her statement under Sections 164 Cr.P.C. was recorded, wherein, she stated that she went with the petitioner voluntarily. To buttress his arguments, he has submitted that now the trial Court has examined all the material witnesses i.e. the victim, her father, her mother and her uncle as PW-1 to PW-4, respectively. He has drawn the attention of this Court to their deposition and submitted that all the material witnesses have not supported the case of the prosecution and hence, declared hostile. He submits that there is no corroborating evidence to prove the case of the prosecution. He has submitted that the petitioner has no criminal antecedents and in the attending facts and circumstances of the case, he deserves to be granted bail.

On the other hand, learned State counsel has submitted that the

victim in this case is minor. Even if she is consenting party, the same would have no legal sanctity. He fairly submits that as per the instructions provided to him, the petitioner has no criminal antecedents. He submits that out of total 14 prosecution witnesses, 4 material witnesses i.e. PW-1 to PW-4 have been examined, however, they have not supported the case of the prosecution.

Heard.

Evidently, the prosecutrix was 17½ years of age at the time of occurrence. She went missing on 27.01.2022 and recovered on 14.02.2022 after about 17 days. Through out this period the petitioner and the prosecutrix remained at the public places but there is nothing on record to show that there was any resistance by the prosecutrix during this period. On her recovery, her statement under Section 164 Cr.P.C. was recorded, wherein she deposed that she had consensual relationship with the petitioner. All the material witnesses have been examined by the trial Court as PW-1 to PW-2, who have not supported the case of the prosecution. There is nothing on record to show that the petitioner has any criminal antecedents. The veracity of the allegations would be evaluated by the trial Court only after conclusion of the trial. 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 sufficient 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.

31.10.2022		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No