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

CRM-M-1425-2022

Date of decision : 18.01.2022

Kuldeep

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. R.S. Mamli, Advocate
for the petitioner.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

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 grant of regular bail to the petitioner in case FIR No.17 dated 12.01.2021, under Sections 363, 366-A, 376, 120-B IPC and Section 4 of POCSO Act, 2012, registered at Police Station City Samana, District Patiala.

As per the factual matrix of the case, the FIR in question was registered by one Hans Raj son of Sham Lal, resident of Amamgarh Mohalla, Samana, District Patiala. It has been alleged that he has two children, elder one is the son who is aged about 19 years and the younger

daughter is 15 years of age. On 10.01.2021 at about 01:30 pm, his daughter had gone to the shop for bringing some articles. However, she did not return. The family started searching for her, however, failed to search. It was suspected that Kuldeep son of Babla i.e. the petitioner and one more unknown person had allured his daughter and took her on their motorcycle. Request was made to take the necessary legal action against the culprits. The petitioner was arrested on 12.1.2021. Thereafter, he approached the learned Judge Special Court, Patiala, for the grant of bail who after hearing counsel for the parties, dismissed the same vide order dated 28.10.2021. Aggrieved by the same, the petitioner has approached this Court by filing the present petition for grant of regular bail.

It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in this case. He submits that no offence as alleged is made out against the petitioner. It has been further contended that both the victim and the petitioner were in love with each other and wanted to marry each other. However, it is because of their age of minority, they could not marry. He submits that the innocence of the petitioner is evident from the fact that now the victim and her father have been examined as PW-1 and PW-2 respectively. He has placed on record copies of their statements. The victim has deposed before the Court that her date of birth is 30.12.2005 and she never got recorded any statement against the petitioner. She knew Kuldeep Singh being brother of Kali, who is engaged to her brother Amandeep. She deposed that Kuldeep has never committed rape upon her and he never took her away. On the request of

learned Public Prosecutor, she was declared hostile. On the same lines, PW-2 Hans Raj, complainant has deposed and he was also declared hostile on the request of learned Public Prosecutor. He submits that as the material witnesses have not supported the case of the prosecution, the petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel submits that the prosecutrix was minor and there are categorical allegations against the petitioner. He further submits that the DNA profile also matches with the petitioner. However, he candidly acknowledges that the complainant and the victim have not supported the case of the prosecution and have been declared hostile. He submits that in all there are 16 prosecution witnesses, out of which, 05 witnesses have been examined till date.

I have heard learned counsel for the parties and perused the records.

Petitioner is behind the bars since 12.01.2021. The victim and the complainant both have not supported the case of the prosecution. Out of 16 prosecution witnesses, 05 witnesses have been examined. In the overall facts and circumstances of the case, it is apparent that the trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time. Keeping in view the abovesaid facts, this Court finds that learned counsel for the petitioner has succeeded 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.

18.01.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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