

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

CRM-M-51574-2022

Date of Decision: 15.11.2022

Vivek

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Lalit Kumar Yadav, Advocate, for the petitioner.

Mr. Kirpal Singh Thakur, Asstt. Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.20 dated 15.01.2022, registered under Sections 363, 366 IPC and Section 6 of POCSO Act, 2012, at Police Station Sector DLF-1, District Gurugram.

As per factual matrix of the case, the present FIR was lodged by the father of the victim alleging therein that he is living on rent at village Sikanderpur since last 40 years. He has two daughters and one son. On 12.12.2021, his elder daughter (victim), who was 17 years of age, had been enticed away on the pretext of marriage by his neighbour Vivek (petitioner) son of Rewaram. Thereafter, they kept on searching his daughter and Vivek, but failed to trace out them. Request was made to register FIR and to take legal action against the culprit. On the basis of the same, the FIR was registered and the investigation commenced. During the investigation, accused Vivek and the victim were recovered on 12.03.2022 and the petitioner was arrested on 13.03.2022. Statement of the prosecutrix was recorded under Section 164 Cr.P.C. and she was medically examined. The

prosecutrix was found to be pregnant during medical examination. The petitioner approached the Court of learned Addl. Sessions Judge, Fast Track Special Court, Gurugram for grant of bail, who, after hearing the parties, declined the same vide order dated 14.10.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of 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 as per the facts of the case, the victim was 17 years of age and went missing from her home on 12.12.2021 and thereafter, recovered after about four months i.e. on 12.03.2022. He submits that during this period the petitioner and the prosecutrix had been living in the public places and moving by the public conveyance and there is nothing on record to show that there was any coercion etc. shown by the petitioner for compelling the prosecutrix to go with him. He further submits that the statements of the prosecutrix was recorded under Section 164 Cr.P.C., wherein she deposed that she herself called the petitioner at her residence and the petitioner never forced her in any manner. She further deposed that she performed marriage with the petitioner on 14.12.2021. She also deposed that she did not want to take any action against the petitioner and want to live with him. To buttress his arguments, learned counsel for the petitioner submits that the prosecutrix, her mother and her father have been examined by the trial Court as PW-2, PW-3 and PW-4, respectively. He submits that all these material witnesses have not supported the case of the prosecution and thus, have been declared hostile on the request of learned Public Prosecutor. He submits that now the parties have duly resolved their dispute and both the

families have decided to marry the petitioner with the prosecutrix. He submits that the petitioner has no criminal antecedents. He submits that once, the prosecutrix herself and her parents have not supported the case of the prosecution, false implication of the petitioner is writ large and hence, he deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and on instructions from ASI Suprem has submitted that the prosecutrix being less than 18 years of age is minor and after she eloped from home, she remained with the petitioner about four months and on her recovery, she was medically examined and found to be pregnant for three months. However, he candidly submits that all the material witnesses have been examined and they have not supported the case of the prosecution. He submits that as per the instructions provided to him, the petitioner has no criminal antecedents.

Heard.

Evidently, the petitioner and the prosecutrix remained missing for about four months. When the prosecutrix was recovered, she was found to be pregnant for three months. Her statement under Section 164 Cr.P.C. was recorded, wherein, she deposed that she voluntarily went with the petitioner and performed marriage with him. She also deposed that she never wanted to take any action against the petitioner. The prosecutrix and her parents have also been examined by the learned trial Court as PW-2, PW-3 and PW-4, respectively and all these material witnesses have not supported the case of the prosecution and thus, were declared hostile. There is nothing on record showing that the petitioner has any criminal antecedents. The veracity of the allegations would be evaluated by the trial

Court only after appreciation of the complete evidence led by both the parties. 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 sufficiently 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.

15.11.2022

sharmila

Whether Speaking/Reasoned :

Whether Reportable :

(RAJESH BHARDWAJ)

JUDGE

Yes/No

Yes/No