

228

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

CRM-M-55556-2022

Date of Decision: December 06, 2022

Raman

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Parveen Sharma, Advocate
for the petitioner.

Mr.Kirpal Singh Thakur, AAG, Haryana.

.....

RAJESH BHARDWAJ, J.(ORAL)

The present petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in FIR No.0655 dated 23.09.2021 registered under Sections 363 & 366-A IPC (later Sections 366, 420, 467, 468, 471, 120-B IPC added and Section 366A IPC deleted) at Police Station Kharkhoda, District Sonipat.

Adumbrated facts of the case are that complaint was lodged by father of the victim wherein it was alleged that his daughter is 16 years of age. Raman, who is their neighbor, kidnapped his daughter on the pretext of marriage. He solemnized the marriage with his daughter by preparing fake documents of her age and they are staying safely together. The request was made to take legal action against the culprits.

On the basis of the complaint, a formal FIR was lodged and the investigation commenced. During the course of investigation, they were recovered on 24.09.2021. The prosecutrix was produced before the learned

Magistrate on 24.09.2021. The Investigating Agency wanted to medically

examine the prosecutrix, however, she refused to undergo the same and thus her medical examination could not be conducted. The petitioner was arrested on 24.09.2021. He approached the learned Fast Track Court, Sonipat, praying for grant of bail, however, after hearing the parties, the same was declined vide order dated 10.08.2022. Aggrieved by the same, petitioner has approached this court for grant of bail.

Learned counsel for the petitioner has vehemently contended that petitioner has been falsely implicated in this case. He has submitted that as evident from the facts and circumstances of the case, both the petitioner and the prosecutrix were in consensual relationship, which was not acceptable to the family of the prosecutrix. He submits that from reading of the allegations it is apparent that prosecutrix was missing from home from 18.09.2021 and thereafter she was recovered on 24.09.2021, i.e. after about a week thereafter. He submits that there is delay in lodging the FIR and in fact the prosecutrix went missing from her home on 13.09.2021 and thereafter both of them performed the marriage on 14.09.2021 in Arya Samaj Mandir, Rohtak. He submits that during all these days, they remained together at public places and had been travelling by public conveyance and there is nothing on record to show that there was any coercion or threat to the prosecutrix from the petitioner. He has submitted that after recovery on 24.09.2021, the prosecutrix was produced before the learned Magistrate for recording her statement under Section 164 Cr.P.C. and she emphatically deposed that she left the home on 13.09.2021. She had gone with petitioner Raman to Sonipat. She wanted to solemnize marriage with Raman and on 14.09.2021 they performed the marriage in Arya Samaj Mandir. She further deposed that her family members used to give her beatings, therefore, she

solemnized marriage with Raman. He submits that thereafter the prosecutrix was examined by the trial Court as PW3 and as she did not support the case of the prosecution and thus, on the request of learned PP, she was declared hostile. He further submits that her father is examined by the trial Court as PW1 and mother as PW2 and both of them have also not supported the case of the prosecution. He submits that in view of overwhelming facts and circumstances, false implication of the petitioner is writ large. The prosecution has no reliable evidence to prove the charges against the petitioner. He has submitted that the petitioner deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that prosecutrix is a minor being less than 18 years of age. However, he candidly acknowledges that after her recovery, in her statement under Section 164 Cr.P.C. and while being examined as prosecution witness, she did not support the prosecution case. He also submits that parents of the prosecutrix also did not support the case of the prosecution. He has submitted that out of 14 witnesses, they have examined only four witnesses. He further submits that as per instructions, the petitioner is not involved in any other case.

I have heard learned counsel for the parties at length and have gone through the record carefully.

Evidently, the prosecutrix went missing from home and she remained with the petitioner for about a week. During this period, they had been residing at public places and also travelling by public conveyances. The prosecutrix did not support the case of the prosecution while being examined as a prosecution witness. Her parents, who were examined as

PW1 and PW2, also did not support case of the prosecution. While deposing before the Magistrate at the time of recording of her statement under Section 164 Cr.P.C., the prosecutrix specifically deposed that she had performed marriage with the petitioner as her family members used to beat her. The veracity of the allegations would be assessed only after conclusion of the trial by the trial Court on appreciation of evidence on record. However, this Court would refrain itself from commenting anything on merits of the case, at this stage.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

December 06, 2022
meenuss

(**RAJESH BHARDWAJ**)
JUDGE

- | | | |
|----|------------------------------------|---------------|
| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |