

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

310

CRM-M-56083 of 2022
Date of decision:08.12.2022

Harpreet Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. A.S.Bhatti, Advocate
for the petitioner.

Mr. Ferry Sofat, Addl.A.G., Punjab.

SUVIR SEHGAL, J. (Oral)

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.16, dated 29.01.2022 registered for offence under Sections 363, 366 and 380 of IPC, 1860, however, Sections 376 and 120-B of IPC and Section 06 of the Protection of Children from Sexual Offences Act, 2012, were added later on, at Police Station Dasuya, District Hoshiarpur, Annexure P-1.

Version of the prosecution is that FIR, Annexure P-1, has been registered on the statement of father of a 17 year old girl (hereinafter referred to as “the prosecutrix”) on the allegation that she is missing from her home and he suspects that Harpreet Singh, who had been engaged as a driver, has allured her on the pretext of marriage. It has been further alleged

that Indian as well as American currency, gold ornaments, some electronic items, a scooty as well as ATM card of the complainant were found to have been stolen.

Counsel for the petitioner urges that although petitioner has been named in the FIR on suspicion, but on recovery, prosecutrix in her statement recorded under Section 164 Cr.P.C., has stated that she left her home as her parents were forcing her to get married to a person of their choice. Counsel submits that she has stated that she left her paternal home of her own, went with petitioner to Chandigarh and Ludhiana, she wants to live with him and get married to him. Counsel has made a reference to the testimony of the prosecutrix (Annexure P-2), who has been examined as PW6 to contend that she has not supported the case of the prosecution. Counsel asserts that the petitioner, who enjoys a clean past and is in confinement since 08.02.2022, deserves to be enlarged on bail.

Opposing the petition, State counsel, upon instructions, has submitted that prosecutrix was a minor on the date of alleged enticement, though in her testimony, she has stated that her date of birth is 05.11.2003. He submits that prosecutrix was subjected to medical examination, but semen was not detected on her clothing. As per his instructions, 10 out of 17 prosecution witnesses, have been examined.

Having considered the respective submissions made by counsel for the parties, this Court is *prima facie* of the view that the complicity of the petitioner in the offence as well as age of the prosecutrix would remain subject matter of debate before the Trial Court and the petitioner, who is in

detention for the last more than 10 months, would be entitled to be released on bail during the pendency of the trial.

Without adverting to the merits or de-merits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be enlarged on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

December 08, 2022

savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>