

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(210)

CRM-M-1722-2023

Date of Decision: 18.01.2023

Davinder Singh @ Babbu

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. S.S. Dhillon, Advocate for the petitioner.

Mr. Shubham Kaushik, AAG, Punjab.

RAJESH BHARDWAJ.J (Oral)

This is the second petition filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.89 dated 4.4.2021 under sections 363, 366-A I.P.C, registered at Police Station, Lambi, District Sri Muktsar Sahib.

As per factual matrix, a complaint was lodged by Kuldeep Singh, wherein it was alleged that he had three children and out of the same his daughter i.e. the victim (name concealed) was 13 years old. She was studying in 8th class. On 28.3.2021 she had gone to her friend's house to study, however, she did not return from there. They searched for her but failed to trace her out. Later on he came to know that Davinder Singh @ Babbu i.e. the present petitioner of their village had enticed her away on the pretext of marriage. A request was made to take legal action against the culprit.

On the basis of the complaint, present FIR was lodged and investigation commenced. During investigation victim was recovered from the custody of the petitioner on 4.4.2021. The investigating agency wanted

to medically examine her, however, no consent was given for the same and hence the medical examination of the victim could not be conducted. Victim was produced before the Magistrate on 5.4.2021 for recording her statement under section 164 Cr.P.C. Petitioner was arrested on 5.4.2021. He approached the court of learned Addl. Sessions Judge, Sri Muktsar Sahib for grant of bail, however, after hearing the parties, the same was declined vide order dated 29.12.2022. Aggrieved by the same petitioner has approached this court for grant of bail by way of filing CRM-M-49850-2021, which was dismissed as withdrawn by this court vide order dated 16.8.2022.

Learned counsel for the petitioner vehemently contends that petitioner, who is a young boy, has been falsely implicated in the present case. He submits that both petitioner and victim were in friendly relationship with each other. He submits that as per case of the prosecution victim went missing on 28.3.2021 and was recovered after about 8 days i.e. on 4.4.2021. On her recovery she was produced before the learned Magistrate for recording her statement under section 164 Cr.P.C, wherein she deposed that she was in love with the petitioner and on 28.3.2021 she left her house voluntarily. It is submitted that there was no coercion whatsoever on the part of the petitioner. It is submitted that as the parents of the victim were against the relationship of the victim with the petitioner, he was falsely implicated in the present case and it was under their pressure that the victim subsequently changed her statement while being examined before the learned Trial Court. It is submitted that petitioner is behind bars for the last 1 year and 10 months and the material witnesses already stand examined. Counsel submits that petitioner has no criminal antecedents and

in the overall facts and circumstances of the case he deserves to be granted bail.

On the other hand, learned State counsel has submitted that there are specific allegations against the petitioner. He submits that victim was 14 years of age at the time of occurrence and even if she was a consenting party, her consent has no legal sanctity in the eyes of law. It is submitted that victim was recovered from the custody of the petitioner and therefore complicity of the petitioner is writ large. He further submits that both complainant and victim have been examined before the learned Trial Court and they have duly supported the case of prosecution. He further submits that out of the total 17 prosecution witnesses 2 already stand examined. It is submitted that petitioner has no criminal antecedents.

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

Admittedly, the victim went missing from her home on 28.3.2021 and was recovered on 4.4.2021. In her statement recorded under section 164 Cr.P.C she deposed that she went with the petitioner voluntarily. She had refused for her medical examination and hence the same could not be conducted. There is nothing on record to show that petitioner has any criminal antecedents. As the material witnesses already stand examined by the learned Trial Court, the possibility of the petitioner influencing them is no more.

This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

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.

(RAJESH BHARDWAJ)
JUDGE

18.01.2023
lucky

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