

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

**CRM-M-6091-2022
Date of decision : 14.02.2023**

Manjit SinghPetitioner

versus

State of Punjab Respondent

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

Present :- Mr. Saurabh Sharma, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

This is the second petition filed by the petitioner praying for grant of regular bail in case FIR No.0017 dated 21.01.2021, under Sections 363, 366-A of IPC (Sections 376, 473 IPC and Section 6 of POCSO Act have been added subsequently vide DDR No.37 dated 11.02.2021), registered at Police Station Tripri, Patiala.

Adumbrated facts of the case are that the mother of the prosecutrix-victim lodged the complaint wherein it was alleged that her youngest daughter who was about 17 years and 07 months was studying in 12th standard in Government School, Tripuri. On 19.01.2021, she left home on motorcycle bearing No.PB-11-AL-4598 but did not return. They searched her at their own level but despite that they could not trace her. It was suspected that some unknown person had enticed her away on the pretext of marriage. On the basis of complaint, formal FIR was lodged and the investigation commenced. During investigation, the investigating agencies arrested the petitioner along with the victim on 07.02.2021. On

recovery of the victim, she was produced before learned Magistrate and her statement was recorded under Section 164 Cr.P.C. She was medically examined. The statement of the witnesses were recorded by the police and investigation was completed. Petitioner approached the Court of learned Additional Sessions Judge, Patiala praying for grant of bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge, declined the same vide his order dated 27.04.2021. Aggrieved by the same, the petitioner on the earlier occasion approached this court by way of filing CRM-M-51379-2021. However the same was allowed to be withdrawn with liberty to the petitioner to file fresh petition with better particulars vide order dated 14.12.2021. Thus, the present second petition has been filed praying for grant of regular bail.

It has been contended by counsel for the petitioner that the petitioner has been falsely implicated in this case. He submits that the petitioner has been roped in the present case only for the reason that the prosecutrix is less than 18 years of age, however, her age was admittedly 17 years 07 months on the date of occurrence. He submits that the prosecutrix went missing from home on 19.01.2021 and she was recovered on 07.02.2021 i.e. after about 18/19 days. It is submitted that in all these 18/19 days, the prosecutrix and the petitioner remained in public places and there is nothing on record to show that there was any coercion from the petitioner's side. He submits that at the most, in the facts and circumstances of the case, it was a case of consensual relationship between the petitioner and the prosecutrix but as the prosecutrix was less than 18 years of age, the petitioner has been implicated in this case at the behest of the family members of the alleged victim. He submits that the

petitioner is behind bars from the last more than 02 years and till date, the prosecution has examined only 03 witnesses and thus, incarceration of he petitioner is being prolonged by the prosecution by not concluding the trial expeditiously. He has submitted that as the prosecutrix already stands examined, there is no probability that the petitioner can influence the prosecutrix. He has submitted that the petitioner has no criminal antecedents and thus, in the facts and circumstances of the case, he deserves to be granted bail.

Learned State counsel, on the other hand, has opposed the submissions made by counsel for the petitioner. He submits that the prosecutrix was less than 18 years of age on the date of occurrence and even if it is a case of consent, the same would have no legal sanctity as the consent of the minor cannot be taken into consideration. He submits that the petitioner is a married person whereas, the prosecutrix was minor on the date of occurrence. He has submitted that the prosecutrix has been examined and she has duly supported the case of the prosecution. He, however, submits that the case of the prosecution is also medically corroborated. He has further submitted that out of 16 prosecution witnesses, 03 witnesses already stands examined including the prosecutrix who has supported the case of the prosecution. He submits that as per his instructions, petitioner is not involved in any other case.

Heard.

Admittedly, the prosecutrix was minor i.e. 17 years 07 months of age on the date of occurrence. She went missing from home on 19.01.2021 and was recovered from the company of the petitioner on 07.02.2021. It is also the case of prosecution that the prosecutrix left

home on motorcycle which was used by both the prosecutrix and petitioner while remaining away from her home. There is nothing on record to show that there was any complaint from the side of the prosecutrix regarding coercion from the petitioner. The prosecutrix already stands examined and thus, there is no probability of the petitioner influencing the prosecutrix before her examination before the trial Court. Petitioner is not involved in any other case.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficiently long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds 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.

14.02.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No