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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13064-2023 (O&M)

Date of decision : 17.08.2023

Harbans Singh

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. G.S. Brar, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

CRM-32396-2023

Application is allowed as prayed for.

Statement of the witnesses are taken on record.

CRM-M-13064-2023

This is the second petition praying for grant of regular bail to the petitioner in case FIR No.166 dated 21.09.2021 under Sections 363, 366-A, 34 of IPC, registered at Police Station Kotbhai, District Sri Muktsar Sahib.

Succinctly, statement of Kulvir Singh was recorded by the police. It was alleged that his elder daughter/victim (name concealed) was 17 years of age and was studying in 10+1. On 20.09.2021, she went to appear in the examination in her school but did not return. They tried to trace her but failed in searching her. It came to their knowledge that Sukhjot Singh son of Charanjit Singh had enticed away their daughter on

the pretext of marriage. It was alleged that Harbans Singh (petitioner) and Sharanjit Kaur have played an active role in elopement of his daughter. Request was made to take legal action against the culprits. On the basis of the complaint, formal FIR was lodged and investigation commenced. During investigation, victim was recovered after about 06 months i.e. on 04.03.2022. She was produced before the Magistrate and her statement under Section 164 Cr.P.C. was recorded on 04.03.2022. However, as the victim refused to give consent for her medical examination, she could not be medically examined. Petitioner was arrested on 18.10.2021. He approached the Court of learned Additional Sessions Judge, Sri Muktsar Sahib praying for grant of bail. However, the same was declined vide order dated 11.01.2022. Aggrieved by the same, petitioner on the earlier occasion approached this Court by way of filing CRM-M-4463-2022, however, this Court declined the same vide order dated 23.11.2022. Hence the petitioner is before this Court by way of present second petition.

It has been vehemently contended by counsel for the petitioner that the petitioner has been falsely implicated in this case being the brother-in-law of co-accused Sukhjit Singh. He submits that evidently, the victim went missing from her home on 20.09.2021 and was recovered after about six months i.e. on 04.03.2022. He submits that during this long period, she had been residing in public places and travelling through public conveyance. He submits that there is nothing on record to show that there was any resentment made by the prosecutrix during this period. He further submits that prosecutrix was produced before the Judicial Magistrate and her statement under Section 164 Cr.P.C. was recorded. Perusal of the statement would show that she had specifically deposed that she was interested in getting married to co-accused Sukhjit Singh and thus, she

went with him on her own will. He submits that there is no allegation whatsoever made by the prosecutrix against the petitioner in her statement under Section 164 Cr.P.C. He submits that now the prosecutrix has been examined by the trial Court and on the pressure of her family, she has deposed against the petitioner. He further submits that now the prosecutrix and the complainant have been examined and there cannot be any apprehension on the part of the petitioner to influence the prosecution witnesses. He has further submitted that the prosecution filed an application under Section 319 Cr.P.C. and wife of the petitioner has also been arrayed and has been summoned as co-accused by the trial Court and thus, trial would take sufficiently long time. He submits that petitioner has no criminal antecedents and thus, he deserve to be granted bail.

Learned State counsel has opposed the submissions made by counsel for the petitioner. She submits that admittedly the prosecutrix is less than 18 years of age and even if she has consented, the same would have no legal sanctity. She has submitted that the prosecutrix has been examined by the trial Court as PW-2 and she has duly supported the case of the prosecution. She further submits that the complainant has also supported the case of the prosecution and out of 12 prosecution witnesses, only 02 witnesses have been examined and thus, there is no case for the grant of bail. She however, on instructions submits that, petitioner has no criminal antecedents.

I have heard counsel for the parties and perused the record.

Evidently, prosecutrix went missing from her home on 20.09.2021 and was recovered after about six months i.e. on 04.03.2022.

In her statement under Section 164 Cr.P.C., she levelled no allegation against the petitioner and the only allegation against the petitioner was that

he played an active role in the elopement of the victim. There is nothing on record to show that the petitioner has any criminal antecedents. Out of 12 prosecution witnesses, material witnesses i.e. prosecutrix and complainant already stand examined.

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.

17.08.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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