

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

CRM-M No.16014 of 2023

Date of decision: 26.07.2023

Manpreet Singh @ Prince

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Gaurav Dutta, Advocate with
Mr. Vaibhav Bhargav, Advocate and
Mr. Sandeep Gahlawat, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

RAJESH BHARDWAJ J. (ORAL)

Prayer in the present second petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.64, dated 14.04.2022, under Sections 363, 366 IPC (Section 376 IPC and Section 6 of POCSO Act were added later on), registered at Police Station Fatehgarh Sahib, District Fatehgarh Sahib.

2. Brief facts of the case are that the complaint was lodged by Sukhvir Singh @ Rinku. It was alleged that he had two kids, elder one is daughter, who is about 17 years and 8 months i.e. prosecutrix and younger than her is son aged 16 years. His daughter was studying in College and pursuing her study in B.A. On 13.04.2022, she went to the college, however, did not return. They inquired everywhere but failed to trace her. It was suspected that Manpreet Singh @ Prince @ Kaka had allured her and persuaded their daughter to marry him. The request was made to take legal action against the petitioner. On the basis of complaint, a formal FIR was

lodged and the investigation commenced. During investigation, petitioner and the victim were recovered on 17.04.2022 from Mohali. Medico Legal Examination of both the petitioner and that of the victim was carried out. The prosecutrix was produced before the learned Magistrate for recording her statement under Section 164 Cr.P.C. on 18.04.2022. Petitioner was arrested on 17.04.2022. The petitioner approached the Court of learned Additional Sessions Judge, Fatehgarh Sahib praying for grant of bail. However, after hearing both the sides, learned Additional Sessions Judge declined the same vide his order dated 10.08.2022. Aggrieved by the same, the petitioner earlier approached this Court praying for grant of regular bail by way of filing **CRM-M-47693-2022**. However, the same was dismissed as withdrawn vide order dated 22.11.2022. Hence, the petitioner approached this Court by way of filing the present second petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that as per record, prosecutrix was 17 years and 8 months of age on the date of occurrence. He has submitted that at the most, it was a case of consensual relationship between the petitioner and the prosecutrix. He has further submitted that on perusal of FIR, it is apparent that she went missing from her home on 13.04.2022 and thereafter, she was recovered after 04 days i.e. on 17.04.2022. He has submitted that during these four days, the prosecutrix was roaming with petitioner in the public places and travelled by the public conveyances. However, there is nothing on record to show that there was any coercion on the part of the petitioner. He submits that on recovery, the prosecutrix was produced before the learned Magistrate for recording of her statement under Section 164 Cr.P.C. and she emphatically deposed that she

left home voluntarily and she never wanted to take any action against the petitioner. He submits that after recovery of both the petitioner and prosecutrix, they were beaten up by family of the prosecutrix, as is evident from their Medico legal reports. He has submitted that under the pressure of the family, prosecutrix has changed her version and thus has deposed against the petitioner while appearing as PW-1. It is submitted that petitioner is a young boy of 21 years of age and he has no criminal antecedents. He further submits that now the material witnesses already stand examined and there is no probability of the petitioner influencing the prosecution witnesses and in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Learned counsel for the State, on the other hand, on instructions, has opposed the submissions made by counsel for the petitioner. She has submitted that admittedly the prosecutrix was less than 18 years of age and even if it was a case of consensual relationship, the same would have no legal sanctity as the consent of minor is immaterial. She has submitted that though the prosecutrix deposed in her statement under Section 164 Cr.P.C. that she left home voluntarily. However, while appearing before the trial Court, she has supported the case of prosecution. She submits that father of the prosecutrix has also supported the case of prosecution. She has further submitted that sexual abuse of the prosecutrix is also corroborated from the Medico Legal Report of the prosecutrix. She has further submitted that out of 27, 7 witnesses have been examined by the prosecution. Thus, in view of the facts and circumstances, the petitioner do not deserve the concession of bail.

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

6. Evidently, the prosecutrix left home on 13.04.2022 and thereafter, she was recovered from Mohali after 04 days i.e., on 17.04.2022. She was produced before the Magistrate and in her statement under Section 164 Cr.P.C., she deposed that she left home voluntarily and did not want to take any action against the petitioner. As per Medico Legal Reports dated 17.04.2022 of both the petitioner and the prosecutrix, they were beaten as the injuries were found on their bodies. As submitted by learned State counsel, out of 27 prosecution witnesses, only 07 witnesses have already been examined including the prosecutrix and the complainant. Thus, the material witnesses 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. 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.

(RAJESH BHARDWAJ)
JUDGE

26.07.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No