

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 221

Criminal Miscellaneous No.M-17824 of 2022

Date of Decision: April 17, 2023

Raju Singh

..... PETITIONER(S)

VERSUS

State of Punjab

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

. . .

PRESENT: - Mr. Mandeep Singh, Advocate for Mr. Vishal Mittal,
Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

. . .

Tribhuvan Dahiya, J (Oral)

This is a petition for grant of regular bail in case FIR No.43 dated 02.07.2021, under Sections 363 and 366-A of IPC, registered at Police Station Sadar Budhlada, District Mansa, Punjab.

2. The FIR was lodged on a complaint by the victim's father that her daughter, aged about fifteen years, was found missing from home. It was apprehended that the petitioner had allured her away.

3. Learned counsel for the petitioner contends that the victim had herself gone to the petitioner. She has stated so in her statement recorded under Section 164 Cr.P.C. also. Contents of the statement are mentioned in the status report dated 15.10.2022 filed by the respondent-State. The victim stated that she stole ₹ 2,000 from her father and went to meet the petitioner, who was staying at Rohtak. She reached there by boarding a bus from her village. Due to being hungry for long, she fainted. The petitioner took her to some local doctor, and was treated there. Thereafter, she was taken to the house of the petitioner's friend, and then to his sister. Somebody informed her parents, who came and took her back. She further mentioned that she had left the care and custody of her parents with her own consent, and the petitioner had no role in it. Neither

had he committed any offence nor exploited her in any manner. No action

should be taken against him. It has been further mentioned in the status report that no human semen was detected on the vaginal swabs and smears slides. The petitioner is in custody since 03.07.2021. Investigation is complete. After framing of charges, the victim has also been examined.

4. Learned State counsel, on instructions from ASI Jaskaran Singh, does not dispute the fact aforestated, as mentioned by learned counsel for the petitioner. An application filed by the complainant under Section 216 Cr.P.C. for invoking provisions of the POCSO Act against the petitioner, is pending before the trial Court and that is the reason the remaining prosecution witnesses could not be examined.

5. Submissions made by learned counsel for the parties have been considered.

6. Culpability of the petitioner is a matter of trial, which will take some time to conclude. The victim did not support the prosecution version in her statement under Section 164 Cr.P.C. Application to invoke provisions of the POCSO Act is still pending. There are eighteen more prosecution witnesses to be examined, and the victim already stands examined. The petitioner is in custody for more than one year and nine months, and has no criminal antecedents. Therefore, no useful purpose will be served by confining him to custody any longer.

7. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of trial Court/Duty Magistrate concerned.

(Tribhuvan Dahiya)
Judge

April 17, 2023
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No