

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

CRM-M-19909-2023

Date of Decision: 28.04.2023

Karamjit Kaur @ Madhu

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Abhinav Kalia, Advocate, for the petitioner.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in a case FIR No.248 dated 26.12.2020, registered under Sections 363, 366, 376 IPC, Section 4 POCSO Act, 2012 (Sections 201, 366-A, 370, 120-B IPC and Sections 9, 10, 11 of the Prohibition of Child Marriage Act, 2006 added later on), at Police Station Khilchian, District Amritsar Rural.

As per the factual matrix of the case, statement of complainant, namely, Pargat Singh was recorded, wherein, it was alleged that he was working as a mason and had two children i.e. one son and one daughter. His daughter/victim (name concealed) was aged about 16-17 years and 8th class pass. On 25.11.2020, when he returned back home at 6:00 p.m., his minor daughter was not at home. He searched his daughter at his own level from relatives and at other places but failed to trace her out. It was alleged that some unknown person took her by alluring her on pretext of marriage. Request was made to take legal action against the culprit. On the basis of the statement, a formal FIR was lodged. The investigation commenced and during investigation the victim was recovered and produced before the Illaqa Magistrate. Her statement under

Section 164 Cr.P.C. was recorded, wherein, she deposed that she had a love affair with Aman. She further deposed that on 26.11.2020, she left the house with Aman from where she was taken to Amritsar. Aman took her to one Hotel and committed rape with her. Thereafter, she was left by him in Gurudwara Sahib and when she visited Sri Harminder Sahib, the petitioner Karamjit Kaur @ Madhu met her. She took the victim to her house and thereafter, she got the victim married to the co-accused Sukhbir Singh. Thereafter, the victim was raped by the said Sukhbir Singh also. It was found during the investigation that petitioner Karamjit Kaur @ Madhu forcibly got the victim married with Sukhbir Singh, who committed rape with her and it was also found during investigation that the petitioner sold the victim to co-accused Sukhbir Singh for a sum of Rs.15,000/-. The petitioner was arrested on 30.01.2021. She approached the learned Additional Sessions Judge Fast Track Court, Amritsar for grant of bail, who after hearing both the sides, declined her prayer for grant of bail vide order dated 15.04.2021. Aggrieved by the same, the petitioner on the earlier occasion approached this Court by way of filing CRM-M-39623-2021, which was dismissed by this Court on 02.02.2022. The petitioner again approached Court of learned Additional Sessions Judge, Fast Track Court, Amritsar for grant of bail, which was dismissed by the learned Court vide order dated 06.02.2023. Hence, the petitioner has again approached this Court by way of filing the present second petition for grant of bail.

Learned counsel for the petitioner vehemently contended that the petitioner has been falsely implicated in the present case and no offence as alleged is made out against the petitioner. He submits that from a bare perusal of the FIR, it is found that there is not even a whisper regarding the complicity of the petitioner. He submits that the petitioner is behind bars from the last more

than two years. He has submitted that the victim has been examined by the trial Court as PW-1 and her father i.e. the complainant has been examined as PW-2 and both have not supported the case of the prosecution. He submits that besides this in her deposition, the prosecutrix deposed that she never stated before the Police that the petitioner forcibly solemnized her marriage with Sukhbir Singh son Satnam Singh without her consent. The prosecutrix was given suggestion by the Public Prosecutor to which she deposed that it was wrong to suggest that her marriage was solemnized with Sukhbir Singh by their relatives and family members in connivance with the petitioner. He further submits that in all there are 8 accused and except the petitioner all the accused are on bail. He submits that all the material witnesses have already been examined by the trial Court. He submits that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

However, learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that though the petitioner was not named in the FIR, but her name surfaced during the investigation, wherein, it was found that she got the victim married to Sukhbir Singh forcibly. It was also come in the investigation that the petitioner sold the victim for a sum of Rs.15,000/- to Sukhbir Singh and she was identified by the victim before the Police and thus, Sections 9, 10 & 11 of the Prohibition of Child Marriage Act, 2006 were added. However, he submits that the prosecutrix and the complainant have been examined by the trial Court and have not supported the case of the prosecution. He further submits that in all there are 22 prosecution witnesses out of which only 12 witnesses have been examined so far. However, he further acknowledges the fact that all the accused except the petitioner, have been granted bail. He submits that as the petitioner has been assigned specific role, so

she is not entitled to be granted bail.

Heard.

Admittedly, the petitioner is behind bars from the last more than two years. All the accused except the present petitioner are already on bail. The prosecution has examined the prosecutrix as PW-1 and the complainant as PW-2 and both these material witnesses have not supported the case of the prosecution. A perusal of the deposition of the prosecutrix shows that she deposed that she was never forced by the petitioner to marry with Sukbir Singh. As all the material witnesses have been examined, so there are no chances of the petitioner influencing the material witnesses. The veracity of the allegations would be evaluated by the trial Court only after appreciation of complete evidence to be led by both the parties before it. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail 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

28.04.2023
sharmila

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No