

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

CRM-M-19907-2023

Date of Decision: 28.04.2023

Amritpal Singh

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Bikramjeet Singh Jatana, Advocate, for the petitioner.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Ms. Davinder Kaur, Advocate, for the complainant.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present second petition is for the grant of regular bail to the petitioner in a case FIR No.54 dated 28.07.2021, registered under Sections 363, 366-A IPC & Section 376 IPC and Sections 3 & 4 of POCSO Act (added lateron), at Police Station Sadar Budhlada, District Mansa.

As per facts of the case, statement of Buta singh son of Mithu Singh was recorded, wherein, it was alleged that his elder daughter i.e. the victim (name concealed) was about 17½ years of age. On 24.07.2021, they all went to sleep, however, in the next morning i.e. on 25.07.2021, they found that his daughter (victim) was missing from home. They tried their best to search her, but failed in tracing her out. It was suspected that Amritpal Singh (petitioner) enticed her away on the basis of false promise of marriage. Request was made to take legal action against the accused. On the basis of the statement of the complainant, a formal FIR was registered and the investigation commenced. During the investigation, the prosecutrix was recovered on 05.08.2021 and she was medically examined and swabs were taken and sent to FSL for further examination. She was produced

before the learned Magistrate for recording her statement under Section 164 Cr.P.C. on 09.08.2021. The petitioner was arrested on 05.08.2021, however, he was granted interim bail on 21.01.2022 as the FSL report was not received. Thereafter, on receipt of FSL report, the petitioner surrendered back on 16.01.2023. Thereafter, he again approached the learned Addl. Sessions Judge, Fast Track Special Court, Mansa for grant of bail, who, after hearing the parties, declined the same vide order dated 23.03.2023. The petitioner on the earlier occasion approached this Court by way of filing CRM-M-45152-2021, however, the same was allowed to be dismissed as withdrawn on 23.12.2021. Hence, the petitioner again approached this Court by way of filing the present second petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He has submitted that the petitioner and the prosecutrix were both in consensual relationship, but the prosecutrix being 12 days less than 18 years on the date of occurrence, the petitioner was falsely implicated in this case for alleged offences. He submits that as per case of the prosecution, the prosecutrix went missing on 25.07.2021 and she was recovered on 05.08.2021 after about 12 days. He submits that the Investigating Agency produced the prosecutrix before the learned Magistrate for recording her statement under Section 164 Cr.P.C. on 09.08.2021 and she specifically deposed that she wanted to perform marriage with the petitioner and she was living with her parents with her consent. She further deposed that she would perform marriage with Amritpal Singh (petitioner) after attaining the age of majority and her parents are also agreed to the same. She also deposed that she went with Amritpal Singh with her own consent and he

never forced her. He submits that thereafter, the petitioner was granted interim bail by the learned trial Court on 21.01.2022 and he surrendered back on 16.01.2023. He submits that as on date, the petitioner and the prosecutrix are the parents of a girl child of about four months of age. It is submitted that the prosecution has examined the prosecutrix, her father (complainant) and her mother and all these material witnesses have not supported the case of the prosecution and they have been declared hostile. He submits that the petitioner has no criminal antecedents and in the peculiar facts and circumstances of the case when the petitioner and the prosecutrix are already parents of a child as well, he deserves to be granted bail.

Learned counsel for the complainant has affirmed the submissions made by learned counsel for the petitioner and has submitted that the prosecutrix and her parents have not supported the case of the prosecution. She submits that both the petitioner and the prosecutrix are married and the complainant has accepted the marriage of his daughter with the petitioner.

However, learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that at the time of occurrence, the prosecutrix was less than 18 years and even if she was a consenting party, her consent would have no legal sanctity. However, he fairly submits that the prosecutrix as on date, is mother of a child from the petitioner. He submits that as per his instructions, the prosecutrix and her parents have been examined by the trial Court and they have not supported the case of the prosecution. He submits that the petitioner has no criminal antecedents and out of total 15 prosecution witnesses, 5 witnesses have been

examined so far.

Heard.

Admittedly, the petitioner and the prosecutrix have a child of about four months of age from their relationship. The prosecutrix and her parents have been examined by the trial Court and they have not supported the case of the prosecution. There is nothing on record to show that the petitioner is involved in any other case. As submitted before this Court, the petitioner was also released on interim bail by the trial Court for about one year and there is nothing on record to show that he misused the concession of interim bail granted by the trial Court. 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.

28.04.2023
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Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No