

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

108+222 CRM-M-26387 of 2023 (O&M)
Date of decision:05.07.2023

Palwinder Kumar ... Petitioner

Vs.

The State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rahul Kumar Adia, Advocate
for the petitioner.

Mr. Arun Luthra, DAG, Punjab.

SUVIR SEHGAL, J. (Oral)

CRM-26952-2023

Application is allowed as prayed for.

Examination-in-chief of the prosecutrix recorded on 31.03.2022
is taken on record as Annexure P-6.

Main Case

1. This is the second petition filed under Section 439 of the Code
of Criminal Procedure, 1973, seeking grant of regular bail to the petitioner in
case bearing FIR (Annexure P-1):-

FIR No.	Dated	Police Station	Sections
112	13.07.2021	Bullocal, District Hoshiarpur	365, 366, 376, 376-D IPC.

2. Version of the prosecution is that FIR (Annexure P-1) has been
lodged on the statement of mother of 20 year old girl (hereinafter referred to

as “the prosecutrix”) on the allegation that her daughter left her parental home in the morning on 13.07.2021 to attend coaching classes but she did not return. The complainant tried to contact her on mobile but did not succeed. She received a phone call from some unknown persons that they have kidnapped her daughter.

3. Counsel for the petitioner submits that although the petitioner is not named in the FIR but he had an affair with the prosecutrix and they solemnized marriage on 07.07.2021 as is evident from the Marriage Certificate (Annexure P-2) issued by Shri Guru Ravi Dass Dharamshala Society (Regd.). He submits that thereafter, petition (CRWP No.6559 of 2021) was filed seeking protection before this Court which was withdrawn. Counsel submits that although the prosecutrix has supported the prosecution case under Section 164 Cr.P.C. as well as in her examination-in-chief but in her cross-examination (at page 11 of the paper book), she has stated that she had recorded her examination-in-chief under pressure. Counsel submits that offence under Section 366 IPC has been inadvertently mentioned in the petition. Still further, he submits that first petition preferred by the petitioner was withdrawn on 28.04.2022 (Annexure P-4) as cross-examination of the prosecutrix was being conducted, which concluded on 02.05.2023. Counsel asserts that the petitioner, who has clean antecedents and is in custody since 14.07.2021 deserves to be enlarged on bail.

4. Per contra, State counsel upon instructions from SI Jiwan Lal, has opposed the petition on the ground that allegations levelled against the petitioner are serious and grave. He submits that prosecutrix has deposed

against the petitioner. He has further instructions to state that 13 out of total 27 prosecution witnesses, including the complainant, have been examined. As per his instructions, the medical evidence also supports the case of the prosecution.

5. I have heard counsel counsel for the parties and considered their respective submissions.

6. As to whether the petitioner married the prosecutrix and the matrimony is valid, would be a subject matter of debate before the Trial Court. Vital prosecution witnesses have been examined. Petitioner, who has clean antecedents and is in custody for the last almost two years, deserves to be enlarged on bail as the prosecution evidence is midway and the trial is not likely to conclude in the near future. This Court is, therefore, inclined to accept the prayer made in the petition.

7. Without advertng to the merits or demerits of the arguments addressed, petition is allowed and petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

July 05, 2023

savita

(SUVIR SEHGAL)

JUDGE

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