

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

CRM-M-31519-2023

Date of Decision: 10.07.2023

Amandeep Singh @ Amandeep Singh Walia

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Simaranjeet Singh Sarwara, Advocate, for the petitioner.

Mr. Arun William, Assistant Advocate General, Punjab.

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.37 dated 30.03.2021, registered under Sections 363, 366-A IPC and Section 376 IPC and Section 6 of POCSO added lateron, at Police Station Anandpur Sahib, District Rupnagar.

Brief facts of the case are that statement of Gurdeep Singh son of Baldev Singh had been recorded by the Police, wherein he alleged that he had two children. His elder daughter i.e. the victim (name concealed) was 15 years of age, whereas, younger son was 13 years of age. His wife was a housemaid by profession. On 25.03.2021 both i.e. the complainant and his wife had gone for their work and on their return at about 6:00 p.m., they found their daughter missing from home. They tried to search their daughter but failed in searching her. It was suspected that somebody had enticed away their daughter on the pretext of marriage. Request was made to take legal action against the culprit. On the basis of the statement, a formal FIR was registered and the investigation commenced. During the investigation, the victim was recovered alongwith Amandeep Singh (petitioner) on 03.04.2021 after about nine days. She was medico legally examined and

produced before the learned Magistrate for recording her statement under Section 164 Cr.P.C. The accused was arrested on 03.04.2021. After completion of the investigation, challan was presented and the trial commenced. The petitioner approached the Court of learned Additional Sessions Judge, Rupnagar, however, the learned Court after hearing both the sides, dismissed the same vide its order dated 31.05.2021. Aggrieved by the same, on the earlier occasion the petitioner approached this Court by way of filing CRM-M-28055-2021, however, the same was allowed to be dismissed as withdrawn vide order dated 23.07.2021. Hence, the petitioner has approached this Court again by way of filing the present second petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that as per case of the prosecution, the victim went missing from her home on 25.03.2021 and thereafter, she was recovered on 03.04.2021. He submits that the occurrence in the present case has allegedly taken place on 25.03.2021, when the victim went missing from home, but the FIR was registered on 30.03.2021, after an unexplained delay of 5 days. He submits that on her recovery, the victim was produced before the learned Magistrate for recording her statement under Section 164 Cr.P.C., wherein the victim had specifically deposed that she left home in anger as she had arguments with her mother. He submits that the victim has specifically deposed that the petitioner had committed no wrong act with her while she remained in his company. He submits that during the trial the victim was examined by the trial Court as PW-2. Though in the examination-in-chief she deposed against the petitioner, however, during cross-examination she specifically

denied the Court question wherein it was put to her by the Court that whether Amandeep Singh entered into physical relations with her forcibly. He submits that all the material witnesses as on date already stands examined and the petitioner has no criminal antecedents. He submits that in the facts and circumstances, the petitioner deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that admittedly the prosecutrix in this case is 15 years of age and thus, she is a minor. He submits that even if the victim has given any consent, the same would have no legal sanctity. He submits that whole deposition of the victim cannot be ignored, as the relevant part, which is consistent, can be relied upon by the Court. He submits that father of the victim has also been examined as PW-5 and he has supported the case of the prosecution. He further submits that out of total 19 prosecution witnesses, 11 witnesses have already been examined. He submits that as per the instructions provided to him, the petitioner is not involved in any other case. He submits that after recovery, the victim was medically examined and vaginal swabs were taken. He submits that as per the DNA report, the same was found positive as it matched with the sample of the petitioner in this case.

Heard.

Evidently, as per case of the prosecution, the victim went missing from home on 25.03.2021 and thereafter complaint was lodged with the police on 30.03.2021 i.e. after a delay of 5 days. After the registration of the FIR, the victim was recovered on 03.04.2021, i.e., after 9 days of her missing from home. In her statement recorded under Section 164 Cr.P.C., she specially deposed that she left home voluntarily with the petitioner and the petitioner had committed no forcible sexual act with her. During the

cross-examination, she was put question to which she denied that the petitioner had committed any sexual act with her. The petitioner is behind bars from the last more than two years and there is nothing on record to show that the petitioner is involved in any other case. 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.

10.07.2023
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Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No