

204

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.30959 of 2023

Date of decision: 07.07.2023

Chand Karan @ Chander Karan

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present:- Mr. Nirmal Singh, Advocate
for the petitioner.

Mr. Rajneesh Chandel, AAG, Haryana.

RAJESH BHARDWAJ J. (ORAL)

The prayer in the present second petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case bearing FIR No.252, dated 27.06.2021, under Sections 363, 366A of IPC (Section 6 of POCSO Act added later on), registered at Police Station Madhuban, District Karnala.

2. Brief facts of the case are that the FIR was lodged on the statement of father of the victim wherein it was alleged that his daughter was missing since 26.06.2021. It was suspected that Gourav and Sagar, son of Raj conspired in abducting his daughter. It was alleged that date of birth of his daughter is 24.10.2003 and she was 8th pass and request was made to take legal action in the matter. On the basis of said allegations, a formal FIR was lodged and the investigation commenced. During the investigation, the victim was recovered on 07.07.2021 and she was produced before the learned Magistrate for recording of her statement under Section 164 Cr.P.C.

She was medically examined and the statements of the witnesses were recorded and the petitioner was arrested on 16.07.2021 and on the completion of investigation, the challan was presented and thereafter, after framing of the charges, the trial commenced. The petitioner approached the learned Special Court for the grant of bail, however the same was declined by the learned Special Court vide its order dated 30.11.2021. Aggrieved by the same, on the earlier occasion, the petitioner had approached this Court by way of filing **CRM-M-401-2022**, however, the same was dismissed as withdrawn vide order dated 04.07.2022. Thus, the present second petition has been filed for grant of regular bail to the petitioner.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that after recovery of the prosecutrix, she was produced before the learned Magistrate for recording of her statement on 07.07.2021, where she deposed that she left her home voluntarily on 26.06.2021 and thereafter, she went to Vaishno Devi Temple along with Chand Karan, i.e., the petitioner. From there on July 1st, they came to Panipat, where both of them got married. She further deposed that she was living with the petitioner after having performed the marriage. He submits that the age of prosecutrix is also disputed as she herself stated that she was 19 years of age. He submits that during the trial, father of the victim, who is the author of the FIR, has been examined by the trial Court and he has not supported the case of the prosecution. He further submits that the prosecutrix after having joined the company of her family members, under their pressure, deposed against the petitioner before the trial Court and thus, her deposition

before the learned trial Court is also not believable. He further submits that the victim is now married with some another boy. He submits that the petitioner is a young boy, who has no criminal antecedents. He submits that the material witnesses already stand examined and the petitioner is behind the bars since the date of his arrest and thus, has completed about 02 years in custody, therefore, the petitioner deserves to be granted the concession of regular bail.

4. Learned counsel for the State has opposed the submissions made by learned counsel for the petitioner by stating that as per investigation, age of the victim is less than 18 years and thus, she being a minor, was taken away by the accused petitioner. He further submits that the petitioner has committed heinous offence and the victim has also supported the case of the prosecution. He submits that there is no ground to grant the concession of regular bail to the petitioner. He submits that out of the total 16 prosecution witnesses, 9 witnesses including the victim and her father have already been examined. He submits that as per instructions, the petitioner is not involved in any other case except the present case.

5. I have heard learned counsel for the parties and perused the record.

6. Evidently, the victim went missing from home on 26.06.2021 and thereafter, she was recovered after about 11 days i.e. on 07.07.2021. After her recovery, statement under Section 164 Cr.P.C. was got recorded, wherein she vehemently stated that she voluntarily left her home along with the petitioner and they went to Vaishno Devi Temple and thereafter, they returned on 01.07.2021 and performed the marriage with rituals. Father of

the petitioner, who is the author of the FIR, has been examined by the trial Court and he has not supported the case of the prosecution. The victim is also said to be now married with some other boy and thus, is settled in her life. The material witnesses already stand examined.

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds 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

07.07.2023

rittu

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No