

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 31827/2023

Date of decision: 01.08.2023.

Ram Pal @ Ravi and another

.....Petitioners.

Vs.

State of Punjab

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. L.S.Mann, Advocate for the petitioners.

Mr. Pankaj Khullar, AAG Punjab

Nidhi Gupta, J.

Petitioners- Ram Pal @ Ravi son of Raj Kumar, and Heera Lal son of Tilak Raj in their first application under Section 439 Cr.PC seek regular bail in case FIR No.50 dated 25.10.2022 under Sections 363, 366-A IPC, PS Pojewal, District SBS Nagar.

Ld. counsel for the petitioners inter alia submits that present FIR has been registered on the statement of mother of the alleged victims. It is submitted that only allegation made in the FIR against the petitioners is that the daughters of the complainant had left their house without disclosing anything and complainant was subsequently informed that her daughters/victims were seen purchasing household articles along with present petitioners at bus stand Sarhoa. Ld. counsel further submits that both the alleged victims have not supported the prosecution case in their statements under Section 164 Cr. PC or even in their testimony before the trial Court.

Ld. counsel refers to testimony of victim/ PW3, aged about 18 years, wherein

in her cross-examination she has categorically stated that *“The accused had not taken us. Our parents had got registered a false case against the accused. I want to reside with accused as he is a good friend of mine. Accused has done nothing wrong with me”*. Ld. counsel also refers to statement of second victim/PW-4, aged about 17 years, who has reiterated the above said stand. It is submitted that in fact PW4 in her examination-in-chief stated that *“I had a boyfriend named Ravi, I wanted to marry him. When I ran away my father agreed to marrying me with Ravi on condition that I should return back. We both came back to our house. Panchayat was convened but my father put a condition of payment of Rs. 5,00,000/- for agreeing to my marriage with Ravi. Parents of Ravi refused to give Rs.5,00,000/-. Then my father called police. I recorded my statement with police and with learned Judicial Magistrate.”* Ld. counsel then submits that both the alleged victims have refused to undergo medical examination.

Ld. State counsel has produced the custody certificate of both the petitioners, which are taken on record. As per custody certificate, both the petitioners have undergone total custody of 09 months 8 days. Ld. State counsel opposes the prayer for regular bail and submits that age of the petitioners is about 22 years whereas, on the date of incident the victims were aged about 17-18 years. He further submits that in offences under the POCSO Act, consent of the victim is not relevant. It is further submitted that both the victims were recovered by the concerned ASI from the custody of the petitioners. Ld. State counsel further submits that complainant/mother of the victim in her deposition, has supported the prosecution case. It is then submitted that 6 out of 18 witnesses have been examined so far and the next date of hearing before the trial Court is 10.8.2023.

After hearing ld. counsel for the parties and keeping in view the totality of facts and circumstances of the case including the fact that 12 prosecution witness are yet to be examined; material witnesses have already been examined; the trial will take time to conclude; the accused petitioners are in custody for last 09 months 08 days and no useful purpose would be served by keeping them behind the bars, the present petition is **allowed**. The petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

01.08.2023.
Joshi

(Nidhi Gupta)
Judge