

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

204+103

CRM-M-42687-2022 (O & M)

Date of decision:02.03.2023

Rajni

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Amandeep Chhabra, Advocate for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

Mr. Rishu Mahajan, Advocate for

Mr. Deepak Vashisth, Advocate for the victim.

SUVIR SEHGAL J. (ORAL)

CRM-10220-2023

Application is allowed as prayed for.

Amended petition is taken on record.

Main Case

This is the second petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.101, dated 03.05.2022 registered for the offences under Sections 363 and 366-A of IPC, 1860, however, Section 120-B, 376 of IPC and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, were added later on, at Police Station City Malout, District Sri Muktsar Sahib, Annexure P-1.

Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of father of a 17 year old girl (hereinafter referred to as “the victim”), on the allegation that Buta Singh, son of the

present petitioner, has enticed his 17 years old daughter. It has been alleged that while leaving her parental home, she stole Rs.45,200/-, which was kept by the complainant for construction work. An allegation has been levelled that the petitioner aided her son in alluring the victim.

Counsel for the petitioner contends that the petitioner is a 32 years old divorced lady and she has been falsely implicated. He submits that the petitioner's son and the victim were in an affair and she left her parental home of her own accord. By referring to Aadhar Card, Annexure P-2, counsel submits that the victim had attained the age of majority and she has married petitioner's son. Counsel has also invited the attention of the Court to the representation dated 10.06.2022, Annexure P-3, submitted by the victim seeking police protection. Still further, he submits that the complainant had physically assaulted petitioner's younger son, who has lodged an FIR against the complainant after his medical examination. Counsel submits that the first petition preferred by the petitioner was withdrawn, after arguments, on 10.08.2022, charge has been framed thereafter and the petitioner, who is in confinement since 05.05.2022 deserves to be released on bail.

Per Contra, learned State counsel, upon instructions from HC Sandeep Kumar, has opposed the petition and has submitted that as per the documents available with the prosecution, the date of birth of the victim is 01.01.2001 and upon her recovery, her custody was handed over to her parents, but she has again left her parental home. He submits that the main accused-Buta Singh, has not been apprehended. He could not dispute the stage of proceedings before the trial court and submits that out of 14 prosecution witnesses, none has been examined. Custody

certificate dated 01.03.2023 has been filed by the State, which is taken on record.

Counsel representing the victim submits that he does not have any objection, in case, the petitioner is enlarged on bail. He has specific instructions to state that the victim has married petitioner's son and she is pregnant from him.

Having considered the submissions made by counsel for the parties, but without advertng to the merits or de-merits of the arguments addressed, this Court is *prima facie* of the view that the allegation levelled against the petitioner, would remain a subject matter of debate before the trial court. Petitioner, who is a divorced lady and is in detention for the last more than 10 months would be entitled to be released on bail as the trial is at a nascent stage.

Petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

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

02.03.2023

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(SUVIR SEHGAL)
JUDGE

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