

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

CRM-M-53976-2022

Date of decision : 31.01.2023

Baljinder Singh @ Sandeep

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Harsh Goyal, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has approached this Court praying for grant of regular bail in case FIR No.0056 dated 27.02.2022, under Sections 363, 366-A of IPC, registered at Police Station Sadar Dhuri.

As per the facts of the case, the complaint was lodged by Shiv Kumar wherein it was alleged that he along with his wife and four children was working at the brick-klin of Shiv Shakti Gram Udhog Samiti, Natta, Village Bahadur, Tehsil and District Sangrur. His daughter (victim) was 16 years of age and on 25.02.2022 at about 09:00 PM, they went to sleep. When he woke up at about 03:30 AM, he found his daughter missing from her bed. They made enquiry and found that Baljinder Singh @ Sandeep (petitioner) had enticed away his daughter on the pretext of marriage. Request was made to take legal action against the culprits. On the basis of complaint, FIR was lodged and investigation commenced. During investigation, the victim was recovered from the custody of petitioner on 4th March, 2022. The victim was produced before the learned Magistrate for recording her statement under Section 164

Cr.P.C. Petitioner was arrested on 4th March, 2022. He approached the

Court of learned Additional Sessions Judge, Sangrur praying for grant of bail by filing third application. However, after hearing counsel for both the sides, learned Additional Sessions Judge declined the same vide his order dated 18th July, 2022. Earlier to that, petitioner had approached this Court by way of filing CRM-M-14576-2022. However, the same was dismissed as withdrawn vide order dated 18th April, 2022. Hence, the petitioner has approached this Court again by way of filing the present second petition.

It has been vehemently contended by counsel for the petitioner that the petitioner was falsely implicated in this case. He submits that as per the allegations made in the FIR, the same was lodged by father of the victim. He submits that the victim allegedly went missing on 25th February, 2022 and thereafter was recovered on 4th March, 2022 i.e. after about 10 days of her missing. He has submitted that there are no allegations pertaining to any coercion or sexual harassment caused by the petitioner to the victim. He has submitted that the victim was produced before learned Magistrate for recording her statement wherein she has specifically deposed that she was in relationship with the petitioner from the last two months and was in love with him. She further deposed that she went with him with her free will and the petitioner never harassed her. He submits that during the course of trial, two witnesses i.e. complainant-Bajir Khan and Shiv Kumar have been examined as PW-1 and PW-2 respectively and both have not supported the case of the prosecution and thus, were declared hostile. He further submits that learned trial Court thrice have issued non-bailable warrants to secure presence of the victim for recording her statement, however, till date she has not appeared before

the trial Court for recording her statement. He submits that learned trial Court even directed to stop the salary of SHO but despite that the whereabouts of the complainant could not be found. He has submitted that in the facts and circumstances of the case, false implication of the petitioner is writ large and thus, he deserves to be granted regular bail.

Learned State counsel, on the other hand, has opposed the submissions made by counsel for the petitioner. He has submitted that the victim in the present case is 16 years of age and thus, being minor even if she was a consenting party, the same would have no legal sanctity. He submits that out of 11 prosecution witnesses, 02 witnesses are examined as PW-1 and PW-2 and they have not supported the case of the prosecution. He, on instructions from ASI Tarsem Singh, has submitted that the investigating agencies have tried to locate the victim for her examination, however, till date, she could not be found. He submits that as per instructions, petitioner is not involved in any other case.

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

Admittedly, the victim went missing from home on 25.02.2022 and was recovered after about 10 days i.e. 4th March, 2022. She was produced before learned Magistrate for recording statement under Section 164 Cr.P.C. wherein she deposed that she went with the petitioner of her own free will and there was no coercion exerted by the petitioner. The father of victim who is author of the FIR has been examined as PW-2 and he has not supported the case of the prosecution. Till date, the victim is also not traceable for recording her statement. There is nothing on record to show that the petitioner has any criminal antecedents.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence led by both the parties before the trial Court. The trial of the case will take sufficiently long time. This Court would refrain itself from commenting anything on the merits of the case. However, confining itself to the prayer made for bail, this Court finds that 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

31.01.2023
m. sharma

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