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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.54641 of 2023(O&M)

Date of Decision: 07.11.2023

Jasvir Singh

..... Petitioner

V/s.

State of Punjab and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. T.P.S. Tung, Advocate for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

Mr. Sartaj Singh Thakur, Advocate for respondent No.4.

Vivek Puri, J. (Oral)

1. The petitioner is seeking regular bail in case bearing FIR No.66 dated 01.07.2023 under Sections 363, 366-A, IPC, 1860 (Section 376, IPC and Section 6 of POCSO Act, were added later on) registered at Police Station Dehlon, District Ludhiana.

2. Custody certificate filed in Court today, is taken on record.

3. Learned counsel for the petitioner contends that the FIR has been registered at the instance of the father of the victim who is stated to be aged about 17 years alleging that on 24.06.2023, the victim was kidnapped by the petitioner on the pretext of solemnizing marriage with her. In her statement under Section 164 Cr.P.C., the victim has not attributed any allegation of kidnapping or forceful act committed upon her by the petitioner. In the said statement, it has been mentioned that the petitioner and the victim were in a relationship and she wanted to solemnize marriage with the petitioner. At the earlier instance, the parental family members of the victim were inclined to solemnize her marriage with the petitioner after she

attains the age of 18 years but subsequently, they wanted to solemnize her marriage with a physically disabled person in Rajasthan. The victim had voluntarily left the house alongwith the petitioner who has also been financially supporting for her studies. As per statement of the victim, the petitioner has not committed any forceful act with her. It has been further submitted that subsequently, the petitioner and the victim have solemnized marriage and the victim is presently residing in the parental house of the petitioner.

4. Learned State counsel on instructions of SI-Manjit Kaur has not disputed the fact that the victim has not leveled any allegation of kidnapping or forceful act committed upon her against the petitioner in her statement under Section 164 Cr.P.C.. However, in her statement under Section 161 Cr.P.C. she has attributed allegations of commission of penetrative sexual assault and she was aged about 17 years at the time of occurrence. The investigation of the case is complete but the charges are yet to be framed.

5. It is significant to note that in her statement under Section 164 Cr.P.C. the victim has not attributed any allegations with regard to the threat, pressure, force or allurement exercised upon her by the petitioner. It is emerging in the statement of the victim under Section 164 Cr.P.C. that she has voluntarily left her parental house as her parents wanted to solemnize her marriage with a physically disabled person in Rajasthan. The victim has specifically stated that the petitioner had not committed any forceful act upon her and further stated that her parental family members have lodged a false report. It has also been submitted that the petitioner and victim have subsequently solemnized the marriage and the victim is residing in the parental house of the petitioner. Although the victim is stated to be less than 18 years of age and the effect thereof, if any, will be looked into by the trial Court at the appropriate stage of the trial. The petitioner is in custody for a

period of 03 months and 22 days and is not involved in any other case. The investigation of the case is complete and the challan has been presented. The conclusion of the trial is likely to take sometime and no fruitful purpose will be served by detaining the petitioner in further custody.

6. In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observations on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/ Chief Judicial Magistrate/ Duty Magistrate.

07th November, 2023
Sonia Puri

(VIVEK PURI)
JUDGE

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