

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(216)

2023:PHHC:079475
CRM-M-57717-2022
Date of Decision: 31.05.2023

Sonu

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Arpandeeep Narula, Advocate for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.57 dated 27.2.2022 under sections 363, 366-A, 376, 212/34 IPC, Section 4 of POCSO Act and section 3(1)(W) of SC/ST Act, registered at Police Station, Kalanwali, District Sirsa.

As per factual matrix, a complaint was lodged by Rajesh Kumar son of Banwari Lal, wherein it was alleged that his daughter (name concealed) was 17 years of age and she went to school with another girl (victim no.2), whose age was 12 years but both of them did not return from school and they searched them on their own level. Thereafter, they received a call from his daughter from mobile phone no.9899490654 and she was found in tension. They inquired about the phone number which belonged to one Sonu @ Ram Bhajan i.e. the present petitioner. On inquiry they found that Ram @ Rahul had enticed away his daughter and her friend i.e. victim no.2. A request was made to take legal action against the culprits.

On the basis of the complaint, present FIR was lodged and investigation commenced. During investigation both the victims were recovered on the next day i.e. 27.2.2022. They were produced before the Magistrate concerned for recording their statement under section 164 Cr.P.C and were medically examined. Petitioner was arrested on 1.3.2022. He approached the learned Fast Track Special Court, Sirsa for grant of bail, however, after hearing the parties, the same was declined vide order dated 2.6.2022. Aggrieved by the same petitioner on earlier occasion had approached this court for grant of bail by way of filing CRM-M-28682-2022, however, the same was allowed to be withdrawn vide order dated 22.11.2022.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in this case. It is submitted that as per the case of prosecution both the victims left the home on 26.2.2022 and they were recovered on the next day i.e. on 27.2.2022. He submits that statements of both the victims were recorded under Section 164 Cr.P.C by the learned SDJM, Dabwali. Counsel submits that from the perusal of these statements of victims it is apparent that no allegations pertaining to sexual abuse of the victims were levelled against the petitioner. He submits that during trial both the victims have been examined by the learned Trial Court and both have not supported the case of prosecution. It is further submitted that co-accused Rahul against whom there are allegations pertaining to the rape has already been granted bail by the Trial Court. It is submitted that as both the victims already stand examined by the Trial Court, there is no possibility of the petitioner influencing them. It is submitted that in the overall facts and circumstances of the case, petitioner deserves to be granted

bail.

On the other hand, learned State counsel on instructions from PSI Gurmish Kumar has opposed the submissions made by counsel for petitioner. He submits that one of the victim being 12 years of age at the time of occurrence is minor. It is submitted that in the statements of the victims recorded under Section 164 Cr.P.C it was deposed that petitioner had enticed away them. State counsel fairly submits that co-accused against whom there were allegations pertaining to rape, has already been granted bail by the Trial Court. It is submitted that out of total 31 prosecution witnesses, 2 have been examined by the Trial Court. It is further submitted that petitioner has no criminal antecedents.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars since 1.3.2022. Both the victims went missing from their school on 26.2.2022 and were recovered on the next day i.e. on 27.2.2022. Their statements under section 164 Cr.P.C were recorded and there was no allegation pertaining to the rape against the petitioner. Besides this, both the victims have been examined by the learned Trial Court and they have not supported the case of prosecution. The co-accused against whom there were allegations pertaining to rape has already been granted bail by the learned Trial Court. As both the victims stand examined by the Trial Court, there is no possibility of the petitioner influencing them. As per information provided by State, petitioner has no criminal antecedents.

This court would refrain itself from commenting anything on the merits of the case, as the allegations and counter allegations would be

assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

31.05.2023

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No