

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(212)

CRM-M-60744-2022

Date of Decision: 10.01.2023

Jangu Din

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Vishwajit Bedi, Advocate for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ.J (Oral)

This is the fourth petition (though the office has reported it to be third petition) filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.73 dated 6.10.2019 under sections 363, 366-A I.P.C (sections 376-D, 323 IPC and sections 5/6 of POCSO Act (added later on) registered at Police Station, Dhilwan, District Kapurthala.

As per factual matrix, the FIR in question was registered on the statement of Liakat Ali, wherein it was alleged that he had five daughters and one son. His youngest daughter i.e. the victim (name concealed) was 14 years of age. In the intervening night of 4/5.10.2019 his nephew Lalli had enticed away his daughter on a false promise of marriage and kidnapped her. He tried his level best to search her, however, failed to trace her out. A request was made to take legal action against the culprit.

On the registration of FIR the investigation commenced. Victim was traced out. Her statement under section 164 Cr.P.C was recorded. The co-accused were arrested, however, the petitioner could not be arrested and thus he was declared Proclaimed Offender on 7.12.2020.

Thereafter he was arrested on 16.11.2021. He approached the learned Special Court, Kapurthala for grant of bail, however, after hearing the parties, the same was declined vide order dated 14.12.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case. He submits that the petitioner was not even named in the FIR and the main accused Lalli has already been granted bail. He submits that during the course of trial the victim and her father i.e. the complainant have been examined as PW-1 and PW-2 and both these witnesses have not supported the case of prosecution and thus declared hostile. It is submitted that once the victim and her father have not supported the case of prosecution, further incarceration of the petitioner would not be warranted and hence he deserves to be granted the benefit of bail.

On the other hand, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the victim in this case was 14 years of age at the time of occurrence. On her recovery, her statement under section 164 Cr.P.C was recorded, wherein she specifically deposed about the active participation of the petitioner. Thereafter, petitioner was arrested on 16.11.2021. He submits that petitioner does not deserve to be granted the benefit of bail.

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

Admittedly, the victim in this case was 14 years of age at the time of occurrence. As per case of the prosecution, accused Lalli had enticed the victim away on the promise of marriage. She went missing from

her home on the intervening night of 4/5.10.2019. On her recovery, her statement under section 164 Cr.P.C was recorded, wherein she deposed about the active participation of the petitioner in kidnapping her and thereafter her sexual exploitation by the accused. Learned counsel for the petitioner prays for parity with the co-accused, who have been granted bail. This court cannot ignore the fact that the petitioner was declared Proclaimed Offender on 7.12.2020 and thereafter he was arrested on 16.11.2021. Even if the victim and her father have turned hostile before the learned Trial Court, the conduct of the petitioner, when he remained Proclaimed Offender for a long time, cannot be ignored by this court. Out of the total 27 prosecution witnesses only 6 have been examined so far.

Keeping in view the overall facts and circumstances of the case, this court does not find any merit in the present case and the same is accordingly dismissed. However, nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

10.01.2023

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