

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Crl. Misc. No.M-14041 of 2016
Date of decision : 08.12.2016**

Ankush Kumar @ Sukhi

.....Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. Deep Singh, A.A.G. Punjab.

ANITA CHAUDHRY, J(ORAL)

The petitioner is seeking regular bail in FIR No.17 dated 23.02.2015, registered under Sections 376, 363, 366, 506 IPC and Section 4 of the POCSO Act, Police Station Dhariwal, District Gurdaspur. The petitioner is in custody since 26.02.2015.

Counsel for the petitioner contends that though in the FIR there are allegations against the petitioner but the story given by the prosecutrix is falsified from the documents placed on record by them. The counsel refers to Annexure P-4 to P-7 to show that Sonia had visited Mata Vaishno Devi along with Harry and they had purchased tickets from Amritsar and the photographs were clicked at the railway station on 19.02.2015 at 11:00 AM. Counsel refers to an inquiry held by the DSP(D) on 02.06.2015 and it had

appeared during investigation that Harry had taken Sonia to Mata Vaishno Devi. The counsel also refers to the concluding paragraph to show that the DSP(D) had ordered that swabs of the petitioner should be taken for DNA test and the DNA test has not been carried out. The counsel states that statement of the prosecutrix has been recorded.

The State counsel has placed on record copy of the statement given by the girl in the Court, which is dated 29.09.2015. Therein the victim had named Herry who was not named by the prosecutrix in the beginning. There is a reference to the request made by the Public Prosecutor for filing an application under Section 319 Cr.P.C.

The State has been unable to confirm as to whether the application was filed and additional accused were summoned.

The petitioner had offered his DNA test. The State is not clear whether the DNA sample was taken. The petitioner is in custody for almost one year and ten months. The trial is taking time to conclude. Without commenting upon the merits of the case, the petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal and surety bonds to the satisfaction of trial Court/Duty Magistrate.

08.12.2016
sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No