

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

CRM-M-12310-2018 (O&M)
Date of decision : 12.10.2018

Sukhninder Singh @ Sukha

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. Vikas Mohan Gupta, Addl. A.G., Punjab,
assisted by ASI Satpal.

None for the complainant.

JITENDRA CHAUHAN, J. (Oral)

The instant second petition has been preferred under Section 439 Cr.P.C. seeking bail in FIR No.209 dated 11.06.2017, registered under Section 376 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012 at P.S. Phillaur.

Contentends that the dispute is with regard to common wall which has been now converted into the present FIR. The prosecutrix and the complainant-mother of the prosecutrix have already been examined. The petitioner is confined in the Observation Home since 16.06.2017.

On the other hand, learned State counsel, on instructions, submits that the prosecutrix as well as the complainant have supported the case of the prosecution. The trial is in progress and only five out of thirteen witnesses cited by the prosecution remain to be examined.

Heard.

This is the second bail petition moved by the petitioner. It is

not a case of Section 376 IPC as PW-5, Dr. Anupma Saggar, Jalandhar Nursing Home and Maternity Hospital has stated that “the urinary infection can be due to unhygienic condition of the patient i.e. may be use of diapers, stooling, less water intake”. The prosecutrix as well as the complainant-mother of the prosecutrix have already been examined. The petitioner is lodged in the Observation Home since 16.06.2017. Out of thirteen prosecution witnesses, only eight have been examined so far, therefore, it can safely be inferred that the conclusion of trial may take considerable time and no useful purpose would be achieved in keeping the petitioner under further incarceration. The examination of the prosecutrix and her mother are fresh circumstances to consider the instant second petition for bail moved by the petitioner.

The petitioner is admittedly a juvenile in conflict with law. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, reads as under:-

“12. (1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person:

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person’s

release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under subsection (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under subsection (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail. ”

In the instant case, the Court feels that there appears to be no reasonable grounds for believing that the release of the petitioner is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

In view of the above, without advertng to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of the trial, on furnishing bail bonds and surety bonds, to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, anything noticed hereinabove shall not be construed as an expression of opinion on the merits of the case.

12.10.2018
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(JITENDRA CHAUHAN)
JUDGE

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