

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

Crl. Misc. M-12856 of 2018 (O&M)
Date of Decision: May 23, 2018

Md. Karamtullah

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Mohd. Arshad, Advocate
for the petitioner.

Mr. A.S. Sandhu, Addl. AG Punjab.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.401 dated 02.12.2015, under Sections 366, 366-A, 120-B, 376 of Indian Penal Code read with Section 18 of POCSO Act, registered at Police Station Basti Jodhewal, District Ludhiana, Punjab.

Learned counsel for the petitioner herein prays for grant of regular bail to the petitioner, while *inter alia* raising the issue of length of custody and that the prosecutrix has suffered a statement on 02.12.2015 under Section 164 Cr.P.C. stating therein that she had left to look after Karamtullah (the petitioner herein) after he had consumed poison. She had stated that there was no fault of the petitioner. Reliance is also placed upon the medical that was conducted on 19.05.2016, which does not reflect an offence under Section 376 of Indian Penal Code. It is contended that the

medical was conducted after a gap of 14 days and therefore, there would be little scope of finding any spermatozoa. It is submitted that the statement of the prosecutrix recorded during trial would be of little relevance since, she committed suicide before she could be cross-examined. It is also argued that charges were framed against the petitioner on 15.03.2017 and since then, the matter has been pending. It is also contended that conclusion of trial will take sufficient time, therefore, the petitioner, who is in custody since 31.05.2016, is entitled to be enlarged on bail.

Per contra, learned counsel appearing on behalf of the respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that the offences alleged against the petitioner herein are serious in nature.

I have heard learned counsel for the parties.

Since, the trial is likely to take some time and in view of the facts that the petitioner herein has been in custody since 31.05.2016 and that the prosecutrix, who could be influenced by the petitioner has committed suicide, no useful purpose would be served in keeping the petitioner behind bars. At this stage, without commenting on the merits of the case, the instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal bond and surety bond to the satisfaction of concerned trial Court/Duty Magistrate.

May 23, 2018
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No