

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

CRM-M-50778 of 2019.

Decided on:- December 05, 2019.

Vikramjit Singh alias Gora alias Vicky.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Anterpreet Singh, Advocate
for the petitioner.

Mr. Sukhbeer Singh, A.A.G., Punjab.

HARI PAL VERMA, J. (Oral)

This is the third petition filed by the petitioner under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.35 dated 16.05.2015 under Sections 363, 366-A and 376 IPC as well as Section 4 of the Protection of Children from Sexual Offences Act, 2012 added later on, registered at Police Station Moti Nagar, District Ludhiana.

The first petition i.e. ***CRM-M-12722 of 2019*** titled as ***Vikramjit Singh alias Gora alias Vicky Versus State of Punjab*** was dismissed as not pressed by this Court vide order dated May 09, 2019. However, the trial Court was directed to make an endeavour to complete the trial preferably within a period of three months from today. It was further ordered that in case the trial

is not concluded within the aforesaid period, the petitioner would be at liberty to file a petition seeking regular bail.

Thereafter, the petitioner filed second petition seeking regular bail i.e. *CRM-M-34773 of 2019* titled as *Vikramjit Singh alias Gora alias Vicky Versus State of Punjab*, which was dismissed as withdrawn vide order dated September 02, 2019 passed by this Court, however, with liberty to the petitioner to approach the trial Court for the relief of regular bail.

It is thereafter, the petitioner filed the application for regular bail before the Court of Session, but the same was dismissed by learned Additional Sessions Judge, Ludhiana vide order dated 30.09.2019.

Learned counsel for the petitioner has argued that it is the admitted case of the prosecutrix and the complainant that the petitioner used to reside in the house of the complainant, who is mother of the prosecutrix, where he used to have food. He fell in love with the prosecutrix and this fact was in the knowledge of the complainant as well. Moreover, the prosecutrix had stayed with the petitioner for about 2½ years and she was regularly in touch with her mother. At no point of time, she had made such complaint to her mother that either she is in illegal custody or rape has been committed upon her. It is only on 16.05.2015, the present FIR was registered against the petitioner.

He has further argued that PW3 Dr. Surbhi Singhal has examined the prosecutrix and has opined that there was no mark of injury on external genitalia of the prosecutrix. PW3 further stated that the prosecutrix did not mention any sexual intercourse and even she did not give any history regarding given an intoxicant.

Learned State counsel, on instructions from ASI Dhanwant Singh, states that , no doubt, the prosecutrix had stayed with the petitioner for about 2½ years, but in her statement under Section 164 Cr.PC and the medical report suggests that the petitioner has committed sexual intercourse with the prosecutrix. However, he does not dispute the fact that the petitioner is in custody since 14.12.2017. He further states that as against 19 witnesses cited by the prosecution, 8 witnesses have been examined, 7 witnesses have been given up and out of the remaining 4 witnesses, 2 witnesses are to be examined on 18.12.2019. In this manner, the trial is at quite advance stage of conclusion.

I have heard learned counsel for the parties.

The petitioner is in custody since 14.12.2017. There is no denial of the fact that the prosecutrix had stayed with the petitioner or about 2½ years and while staying with the petitioner, she had been regularly talking to her mother and at no point of time, she had made any complaint against the petitioner. In this manner, relations between the parties, if any, may be presumed to be consensual unless contrary comes on record. The argument of learned State counsel that the medical evidence is against the petitioner is a matter to be adjudicated during the trial. Therefore, when the culpability of the petitioner is yet to be decided during the trial, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail and surety bonds to the satisfaction of learned trial Court.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

December 05, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No