

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

(Heard through VC)

CRM No.22917 of 2020 in/and
CRM-M-6542 of 2020 (O&M)
Date of Decision: September 17, 2020

Saleem Khan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rakesh Gupta, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG Punjab.

JAISHREE THAKUR, J. (Oral)

CRM-22917-2020

This is an application that has been filed for preponing the hearing in the main petition for grant of regular bail, which is now listed for 22.12.2020.

For the reasons mentioned in the application, the same is allowed. Hearing in the main petition for grant of regular bail is preponed and the same is taken up today.

CRM-M-6542-2020

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.145 dated 04.05.2019, under Sections 376, 380 of Indian Penal Code, registered at Police Station Zirakpur.

Learned counsel for the petitioner contends that the petitioner herein was taken into custody in the aforesaid FIR on 04.07.2019. It is submitted that the petitioner has been falsely implicated in the present case as would be evident from the fact that FIR under Section 376 of IPC came to be registered after a long gap of one month. It is argued that there is no medical available to support the said allegation. Counsel for the petitioner would submit that after the framing of the charges, the prosecutrix had been repeatedly summoned by the trial court, however, firstly she did not turn up despite service, as such, her bailable warrants were issued. Thereafter, she appeared and sought an adjournment and was bound down for next date of hearing, however, she again did not turn on the date for which she was bound down and again summoned by the trial court. Counsel for the petitioner also points out that when the matter had been taken up for hearing before this court on 19.02.2020, the petition had been kept pending for recording the statement of the prosecutrix. However, the zimni orders of the trial court would reflect that she appeared before the trial court, but sought time to consult the lawyer and did not come back to court despite the matter having been called 3-4 times. Thereafter, she only put in an appearance before the trial court, after the court hours were over. It is further submitted that thereafter she appeared before this court on 06.03.2020 and had given

an undertaking that she would appear before the trial court on 19.03.2020 to get her statement recorded and cross-examination, however, she again failed to do so. It is further contended that it will take sufficient time to conclude the trial, as the courts are not functioning at their full strength due to Covid-19 pandemic, as such, the petitioner is entitled to be enlarged on bail.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while contending that the offences alleged against the petitioner are serious in nature. However, she is not in a position to dispute the zimni orders that have been annexed.

I have heard learned counsel for the parties.

It appears that the complainant is deliberately shying from having her statement recorded, despite an undertaking having been given to this court that she would put in appearance before the trial court on the next date to have her statement recorded. In view of the facts that the petitioner herein has been in custody since 04.07.2019 and that trial would like to take sufficient time to conclude as the courts are not functioning at their full strength due to Covid-19 pandemic, 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 personal bond and heavy surety bond to the satisfaction of concerned trial Court/Duty Magistrate.

However, anything observed or said by this court is only for the purpose of deciding the instant petition for grant of regular bail and the

same shall have no affect on the merits of the case.

September 17, 2020
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No