

CRM-M-19729 of 2020

**207IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-19729 of 2020
Date of decision: 01.12.2020

Kashmiri Lal

.....Petitioner

vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Manpreet Singh, Advocate, for the petitioner.
Mr. S.S. Cheema, AAG, Punjab.

DEEPAK SIBAL, J. (ORAL)

Case taken up through video conferencing.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.132 dated 19.12.2019 registered under Section 376 IPC read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Ghuman, Tehsil Batala, District Gurdaspur.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the case on account of personal enmity between the petitioner and the family of the prosecutrix; there is no other criminal case in which the petitioner is involved; report under Section 173 Cr.P.C. has been filed therefore petitioner is in no position to influence the investigation; there is no medical evidence to support the prosecution version as in spite of repeated requests made by the prosecution the prosecutrix has refused to get herself medically examined; the complainant and the prosecutrix have filed an affidavit (Annexure P-8) as

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per which they have launched false prosecution against the petitioner due to enmity between the families and that the trial which is yet to begin will take a long time to conclude.

Learned State counsel, on instructions from SI Rajinder Singh, admits to the period of incarceration of the petitioner; the fact that the prosecutrix on three occasions has refused her medical examination; the non-involvement of the petitioner in any other criminal case and with regard to the genuineness of the afore-referred affidavit filed by the complainant and her daughter with regard to launching of false prosecution against the petitioner on account of personal enmity between the families but opposes the grant of bail to the petitioner on the ground that he is accused of committing rape on a minor.

The petitioner who is 55 years of age has been in custody for the last nearly one year; he is not involved in any other criminal case; report under Section 173 Cr.P.C. has been filed therefore he is in no position to influence the investigation; there is no medical evidence to support the prosecution version as the prosecutrix has admittedly refused her medical examination in spite of repeated requests; the complainant and the prosecutrix have filed an affidavit before this Court in support of the case set up by the petitioner and the trial which is yet to commence is likely to take a long time especially in the present circumstances when the world is facing the Covid-19 pandemic.

Keeping in view the totality of the above facts, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the

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CJM/Duty Magistrate, Gurdaspur, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

December 01, 2020
R.S.

(Deepak Sibal)
Judge

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