

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

CRM-M-30180-2020

Date of decision: 05.10.2020

SUNNY KUMAR

----Appellant

VS

STATE OF PUNJAB

---Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. P.K.S. Phoolka, Advocate for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

SUVIR SEHGAL, J (Oral)

The Court has been convened through Video conferencing due to Covid-19 pandemic.

The petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No. 43 dated 17.07.2019 (Annexure P-1) under Sections 363, 366, 376, 376-D, 120-B IPC & Section 6 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Aur, District SBS Nagar.

Counsel for the petitioner has argued that none of the provisions, under which the FIR has been registered, are made out insofar as the petitioner is concerned. He has made a reference to the statement Annexure P-2 and P-3 of the father of the prosecutrix, who appeared as PW-1 and the prosecutrix, PW-2, wherein they have stated that on 16.07.2019, the prosecutrix voluntarily accompanied the petitioner and another friend of the main accused, Manpreet @ Lovely on their motor-cycle. Further reference has been made to their testimony wherein they have deposed that

the accused-petitioner did not have any sexual inter-course with the prosecutrix. Counsel submits that even in the statement of the prosecutrix which was recorded under Section 164 Cr.P.C., she has not levelled any allegation regarding sexual assault against the petitioner. He submits that the petitioner is in custody for the last more than 11 months and deserves to be enlarged on bail, as the trial is not progressing due to out break of the pandemic.

Mr. M.S. Nagra, AAG, Punjab, upon instructions from ASI Jaskaran Singh, has opposed the petition. He has filed custody certificate dated 05.10.2020 by e-mail and print out of the same has been taken on record. A copy thereof has been supplied to the counsel for the petitioner. He submits that 18 out of 22 prosecution witnesses have been examined. He, however, could not dispute the argument regarding the statements of the prosecutrix as well as her father.

I have considered the rival submissions. Keeping in view the above facts and circumstances, the period of incarceration of the petitioner and the fact that the conclusion of the trial is likely to take time, no useful purpose would be served by keeping the petitioner in further detention. Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate.

(SUVIR SEHGAL)
JUDGE

05.10.2020
monika*

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No