

In virtual Court

CRM-M-32739-2020

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-32739-2020 (O&M)  
Date of decision: 26.10.2020

Sukhdev Singh @ Sukha

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. J.S. Thind, Advocate  
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

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**ARVIND SINGH SANGWAN, J. (ORAL)**

Prayer in this petition is for grant of regular bail in FIR No.215 dated 18.11.2019 under Sections 363, 366-A, 376 IPC and Section 4 of POCSO Act, registered at Police Station Lopoke, Amtisar.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Harjit Singh, he has three children; the elder daughter/victim 'S' is aged about 14 years, who has passed Class 8<sup>th</sup> and presently studying in Class 9<sup>th</sup>. On 17.11.2019, when he was working in his fields and his younger daughter and son were with him on the tractor, the victim was at home and his mother Balbir Kaur was cooking food. Then the victim locked the kitchen from the outside to restrain her grandmother from coming outside and left the house by taking an amount of Rs.25,000/-, which were lying

in the trunk. On coming back to home, he noticed all things. Despite searching for the victim, he could not find her. When he went to house of Sukhdev Singh @ Sukha, his mother Gurmit Kaur told that Sukhdev Singh @ Sukha had gone to city on a motorcycle and on suspicion that the petitioner has taken away his daughter on the pretext of marriage, FIR was registered on 18.11.2019.

Learned counsel for the petitioner further submits that initially, the FIR was registered under Sections 363, 366-A IPC. Learned counsel has referred to MLR of the victim, wherein, on general physical examination, no evidence of fresh external injury was found on her body. Learned counsel has further referred to operative part of the MLR with regard to injuries on the private part of the victim, wherein it is stated that no injury was detected. During the medical examination, vaginal swabs were taken and were sent to chemical examiner and the report is awaited. As per the initial MLR conducted at CHC, it is reported that possibility that the victim was subjected to sexual assault, cannot be ruled out. It is further submitted that the petitioner is in custody for the last 11 months and 08 days; challan stands presented and it will take some time in conclusion of the trial.

Learned counsel for the petitioner has also relied upon an affidavit of complainant Harjit Singh, father of the victim, wherein it is stated that no offence was committed by Sukhdev Singh @ Sukha or Balwinder Singh with his daughter and his daughter had gone herself from the house and later on, came back alone and she did not tell anything to him or his wife. This affidavit is attested before the Executive Magistrate, Sub Tehsil Lopoke on 21.08.2020 and suggests that the complainant has no objection if the FIR is cancelled.

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Learned counsel for the petitioner has referred to various interim orders passed by the trial Court from 29.02.2020, which suggest that despite summoning, the complainant and his wife are not appearing and rather some application under Section 311 Cr.P.C. was filed. Thereafter, the case was adjourned on number of occasions on account of COVID-19 situation.

Learned State counsel has submitted that he has no information regarding any such affidavit executed by the complainant, however, could not dispute the medical evidence relied upon by the petitioner.

Learned counsel for the petitioner as well as learned State counsel have submitted that chemical examiner report is yet to be received to ascertain the penetrative sexual assault on the victim.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the facts and circumstances of the case and also in view of affidavit given by father of the victim, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

**[ ARVIND SINGH SANGWAN ]**  
**JUDGE**

26.10.2020  
*vishnu*

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No