

208.

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

CRM-M-4403-2021

Date of Decision: 27.10.2021

(Heard through VC)

NIRMAL SINGH

.... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

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

Mr. A.S.Gill, Senior DAG, Punjab.

JAISHREE THAKUR.J (Oral)

This is a petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.132, dated 16.05.2017, registered under Section 376 of IPC and Section 13 of the POCSO Act, 2012 at Police Station Nakodar Sadar, District Jalandhar Rural.

Counsel for the petitioner would contend false implication by contending that DNA report itself does not support any allegation of the offence of rape against the petitioner herein and at best the DNA would reflect that it is one Jaspal Singh who had committed the said offence. It is contended that the third accused under the said FIR has been recently arrested and, therefore, there would be a denovo trial. It is also argued that the complainant in this case, who is the mother of the prosecutrix, has turned hostile and not supported the case as set up in the FIR.

On the other hand, learned State counsel opposes the grant of regular bail to the petitioner by contending that the prosecutrix in the instant

case is a simpleton minor girl, who has categorically supported her version, as set out in the FIR, while appearing in the Court. It is contended that she has identified the petitioner as one of the accused who would visit the house and committed the offence of rape for over a period of one year. It is argued that even if the DNA report pertains to one Jaspal Singh, there is specific allegation in the said FIR and in the statement of the material witness i.e. the prosecutrix that the petitioner herein had been committing the offence of rape upon her for over a period of one year.

I have heard learned counsel for the parties and while taking note of the contention that Malkiat Singh, the third accused, has recently been arrested and a denovo trial would commence, would also take note of the statement of the young prosecutrix, who herself admits to be simple minded that the petitioner herein had been visiting her house and committing the act of rape upon her for over a period of one year. Even though the mother of the prosecutrix has turned hostile, the material witness i.e. the prosecutrix has supported the said allegation.

Consequently, no ground for regular bail to the petitioner is made out at this stage. The petition is accordingly dismissed.

However, any observation made herein are only for the purpose of deciding the bail petition and the trial Court shall decide the case on the basis of evidence led before it.

(JAISHREE THAKUR)
JUDGE

27.10.2021

sanjeev	Whether speaking/reasoned:	Yes/No
	Whether Reportable:	Yes/No