

102/202

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No. 6632 of 2021 (O&M)

Date of decision: 01.09.2021

Davinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. O. P. Kamboj, Advocate, for the petitioner.
Mr. Luvinder Sofat, Assistant Advocate General, Punjab.
(Presence marked through video conferencing).

Arun Monga, J. (Oral)

CRM No.27464/2021

The application is allowed and the accompanying statement of PW-3 dated 16.08.2021 (Annexure P-5) is taken on record subject to all just exceptions.

CRM-M No.6632/2021

1. This is second foray of the petitioner before this court, seeking regular bail in FIR No.27 dated 07.02.2020, registered under Sections 377, 506 IPC and Section 6 of the Protection of Children From Sexual Offence Act, 2012 at Police Station, City Moga, District Moga, having got the first petition dismissed as withdrawn on 23.07.2020.

2. Per prosecution, an FIR was registered on the information of complainant Jagsir Singh (maternal uncle of the victim) accusing that

Pardeep Singh @ Bunty had committed unnatural sex with his nephew (son of sister of the complainant). Further allegation is that on 05.02.2020 at about 4.00 p.m. the petitioner and his co-accused even threatened to kill the minor victim. Later on, after preliminary investigation the accused were arrested. Challan already stands presented.

3. The petitioner is in custody since 09.02.2020.

4. Learned counsel for the petitioner argues that the petitioner has been falsely implicated in this case. He *inter alia* relies on the affidavits of the parents of the minor victim, contained as **Annexure P-3 and P-4**, respectively whereby they have specifically denied that any such incident, as alleged in the FIR, took place. That apart, learned counsel has also placed on record testimony of PW3- minor victim, as **Annexure P-5**, wherein he has not supported the prosecution version/ allegations in the FIR. Victim has stated that the alleged offence was, in fact, committed by some unknown person and not the petitioner. When the minor victim was confronted with the petitioner in the Court Room, he did not, in fact, even recognise him.

5. Per contra, learned State counsel opposes the bail plea. He argues that there are specific allegations against the petitioner and there is every likelihood that he may abscond.

5. I have heard rival contentions of the respective learned counsels.

6. On a Court query, learned State counsel does not controvert that the material witness minor victim himself in his testimony in court has not supported the prosecution version. Recording of the statements of the rest of the witnesses will still take some time. The petitioner is in

custody since 09.02.2020. The pending trial is not likely to conclude anytime soon as the Courts are currently functioning under certain restrictions caused by Covid-19 pandemic and till outcome thereof, to keep the petitioner in custody merely on the ground of apprehension of absconding, seems to be improper and unfair at this stage.

7. Considering the overall scenario, coupled with prolonged detention of more than one and a half year already undergone, without commenting on the merits of the case, this petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

8. Accordingly, petitioner is directed to be released on bail, on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

01.09.2021

vs

**(ARUN MONGA)
JUDGE**

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