

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-15427-2020 (O&M)
Date of Decision: 11.02.2021

Manoj Kumar Porwal

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Vipin Mahajan, Advocate,
for the petitioner.

Mr. Venu Gupal Jauhar, Sr. D.A.G., Punjab.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, for grant of regular bail to the petitioner in FIR No.67 dated 23.06.2019, under Sections 363, 366-A, 506, 328, 372, 373, 376 and 120-B of the Indian Penal Code and Section 4 of the POCSO Act, registered at Police Station Sadar Gurdaspur, District Gurdaspur.

As per the allegations which are contained in the FIR, which was lodged on the basis of statement of one Kamla Rani wife of Kans Raj that her elder grand daughter Nabreet Devi, who was of the age of 17 years, was enticed away by one Rohit son of Jaspal. Thereafter, during the investigation, although, Rohit was declared as innocent but the prosecution got information that the victim had gone to withdraw an amount of Rs. 500/- from an ATM and on 16.06.2019, one lady Kamaljit Kaur met her and kidnapped her and took her to Maharashtra through train. Thereafter, on

28.06.2019, the said lady had taken her to the house of Satu @ Satya Narayan son of Dwarka Dass and thereafter, called the present petitioner, thereafter, she was sold to the petitioner for a sum of Rs.1,40,000/-. On 10.07.2019, she was forcibly married with the petitioner, who also raped her thereafter, the provisions of Section 4 of POCSO Act were also added on 28.07.2019.

The learned counsel for the petitioner has submitted that the petitioner was falsely implicated in the present case because it was a case where the petitioner and the alleged victim had married with each other voluntarily and they were staying together. However, the girl was under pressure from her family members. He further submitted that the petitioner is in custody since 26.07.2019 which is about 1½ years and after the completion of the investigation process, the challan was presented and thereafter, the charges were framed. The learned counsel further submitted that out of 24 prosecution witnesses, 13 have already been examined including all the material witnesses and the victim/prosecutrix. He has further submitted that even the statement recorded by the prosecutrix/victim is having inconsistencies. He has further submitted that the girl even earlier refused to get conducted medical examination but thereafter, when the medical examination was conducted it was found that there was no human semen on the swabs taken. The learned counsel has further submitted that since all the material witnesses have been examined and the trial is not progressing due to Covid-19 epidemic and it will take some time for conclusion, as such, he may be considered for grant of regular bail. He has further submitted that the petitioner is not involved in any other case. He

further submitted that the other two co-accused namely Satya Narayan @ Satu and Kamaljit Kaur have also been granted bail by this Court in CRM-M-21176-2020 and CRM-M-12746-2020 respectively.

On the other hand, the learned State counsel has submitted that an affidavit of the Deputy Superintendent of Police, City, District Gurdaspur has been filed, which is taken on record. As per the affidavit it is correct that out of 24 prosecution witnesses, 13 of them have already been examined and now the case is fixed for the remaining prosecution evidence. Relying to para 5 of the affidavit, the learned State counsel has submitted that the medical examination of the prosecutrix/victim was conducted and on the swab taken, it was not stained with human semen. The learned State counsel has not disputed that the petitioner is not involved in any other case and he has also not disputed that only formal witnesses are left for examination. He has also not disputed with regard to the effect that other two co-accused as aforesaid have already been granted bail by coordinate bench of this Court. However, he has opposed the grant of bail on the ground that the matter is serious in nature.

I have heard the learned counsel for the parties.

It is not disputed that out of 24 prosecution witnesses, 13 of them have already been examined including the prosecutrix/victim and formal witnesses are left for examination. It is also not disputed that the petitioner is not involved in any other case and the other two co-accused have been granted bail by this Court. Furthermore, it is not the case of the State that in case the petitioner is released on bail then there is a likelihood of him tampering with any evidence or influencing of any of the witnesses.

Therefore, considering the totality and circumstances of the present case, I deem it fit and proper to allow the present petition. Consequently, the present petition is allowed. The petitioner shall be admitted to regular bail on his furnishing bail/surety bonds subject to the satisfaction of the learned trial Court/Duty Magistrate.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

11.02.2021
adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No