

210.

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

CRM-M-23357-2021

Date of Decision: 13.10.2021

(Heard through VC)

KARAN KUMAR

.... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. M.K. Bali, Advocate, for the petitioner.

Ms. Rashmi Attri, AAG, Punjab.

JAISHREE THAKUR.J (Oral)

This is second petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.31, dated 31.01.2019, registered under Sections 363, 366-A, 376 of IPC and Sections 4, 6, 8, 10 and 12 of the POCSO Act, 2012 at Police Station Phillaur, District Jalandhar. The earlier petition (CRM-M-4013-2020) was dismissed as withdrawn on 05.10.2020.

Learned counsel for the petitioner would contend that the petitioner has been falsely implicated in the said matter. It is also contended that the statement of the material witness i.e. the complainant, who got the FIR registered, and the statement of the prosecutrix have already been recorded. The complainant, who is the mother of the prosecutrix, has turned hostile, whereas there are discrepancies in the statements of the prosecutrix regarding the arrest of the petitioner. The prosecutrix has stated that the petitioner herein was arrested at the spot, whereas the petitioner in fact was

arrested from his house. It is argued that the DNA sample was not taken in terms of Section 53 Cr.P.C. and, therefore, there would not be anything to connect him with the offence.

On the other hand, learned State counsel opposes the grant of regular bail by contending that the statement of the prosecutrix supports the case as set up by the prosecution and there is no reason to disbelieve her. On the asking of the Court whether there was any DNA sample taken that would match with the petitioner, this Court is informed that the sample was taken, however, the same was not preserved properly by the Investigating Officer and disciplinary action has been taken against him.

I have heard learned counsel for the parties and keeping in view the custody of the petitioner who has been incarcerated since 01.02.2019 and the trial in the case will take time to conclude as out of 16 witnesses cited, only 6 have been examined, deem it appropriate to release the petitioner on regular bail at this stage.

Accordingly, the instant petition is allowed and the petitioner is directed to be released on regular bail on execution of personal bond in a sum of ₹2 lakhs with one surety of like amount to the satisfaction of concerned trial Court/Duty Magistrate. However, any observation made herein shall not be construed to be an expression of opinion on merits of the case.

(JAISHREE THAKUR)
JUDGE

13.10.2021
sanjeev

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