

**224 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-25547-2021(O&M)
Date of decision : 09.11.2021**

Sukhchain Singh @ Chaini

.....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. R.K. Jaswal, Advocate for the petitioner.

Mr. Abhay Pal Singla Gill, AAG Punjab.

ALKA SARIN, J. (ORAL)

This is the second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.196 dated 29.06.2020 under Sections 363/366-A of the Indian Penal Code, 1860 (Section 4 of the Protection of Children from Sexual Offences Act, 2012 and Section 376 IPC were added later on), registered at Police Station Patran, District Patiala. The first bail petition of the petitioner being CRM-M-26004-2020 was dismissed as withdrawn on 27.10.2020.

Learned counsel for the petitioner would contend that the petitioner has been in custody for a period of 1 year and 4 months. He would further contend that the petitioner and the prosecutrix were in love with each other and solemnized their marriage on 29.06.2020. Thereafter, they had also preferred a protection petition being CRWP No.4349 of 2020, however, the same was dismissed as withdrawn on 15.07.2020 since the petitioner was arrested on 03.07.2020. Thereafter, statement of the

prosecutrix under Section 164 CrPC was got recorded on 06.07.2020 i.e. three days after her custody was handed over to her parents.

Learned counsel for the petitioner would further contend that the prosecutrix as well as the complainant have since been examined and the prosecutrix in her cross-examination has admitted her signatures on the marriage certificate dated 29.06.2020 and on the protection petition i.e. CRWP No.4349 of 2020.

Learned counsel for the State on instructions from ASI Teja Singh is not in a position to deny the facts as mentioned by learned counsel for the petitioner. However, he states that the present case is not fit for grant of regular bail to the petitioner inasmuch as Section 4 of POCSO Act has been invoked against the petitioner.

Heard learned counsel for the parties.

In view of the above and considering the fact that the petitioner has been in custody for a period of 1 year and 4 months as also the facts that the petitioner and the prosecutrix had solemnized their marriage on 29.06.2020 and had also preferred a protection petition i.e. CRWP No.4349 of 2020 before this Court and she in her cross-examination has admitted her signatures on the marriage certificate dated 29.06.2020 as well as on the protection petition i.e. CRWP No.4349 of 2020 and that the trial is likely to take some time to conclude, no useful purpose would be served by keeping the petitioner behind the bars any further.

Without commenting upon the merits of the case, I deem this to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off.

09.11.2021
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO