

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-34544-2021

Date of Decision: 15.09.2021

(Proceedings through V.C.)

Ninder Pal

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Prateek Pandit, Advocate for the petitioner.

Mr. S.P.S. Tinna, Addl. A.G., Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

1. This is a repeat second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.77 dated 22.10.2019 under Sections 363, 366-A, 376 IPC and Sections 4 and 8 of Protection of Children from Sexual Offences Act, 2012, Police Station Dhilwan, District Kapurthala.

2. Learned counsel for the petitioner submits that prosecutrix has attained majority during the course of trial. Learned counsel refers to

the statements made before the trial court on 17.12.2020 by the prosecutrix as PW1 and her mother-complainant as PW2 on 16.02.2021. Learned counsel submits that though in her examination-in-chief, the prosecutrix has stated that the petitioner committed rape upon her against her wishes, but in the cross-examination, she has admitted that she had left her home voluntarily as she wanted to marry the accused as they were having love affair. She further admitted that marriage ceremony was also performed at a Gurudwara in Baba Bakala. Learned counsel further submits that trial would take a long time to conclude and the petitioner is behind bars since 24.10.2019. Thus, he submits that no useful purpose would be served by keeping the petitioner behind bars.

3. On the other hand, learned State counsel has opposed the grant of bail to the petitioner. He submits that the allegations against the petitioner are serious in nature and this Court has earlier rejected his bail application vide its order dated 29.12.2020 and thereafter, there is no change in the circumstances which would warrant grant of regular bail to him. Further, learned State counsel informs this Court that out of 14 prosecution witnesses, 4 witnesses have been examined and the next date before the trial court for recording of prosecution evidence is 28.09.2021.

4. I have heard learned counsel for the parties and perused the paper-book.

5. Indisputably, prosecutrix was below the age of 18 years at the time of commission of offence. In the cross-examination before the trial court recorded on 17.12.2020, the prosecutrix has clearly stated that she does not want to marry the accused and she is scared that the

petitioner will insist her to live as husband and wife and due to this reason, she got recorded her chief-in-examination. She further stated that whatever the petitioner committed with her, same was against her wishes. Thus, the allegations made against the petitioner are, prima facie, serious in nature. Further more, there is no change in the circumstances when the earlier bail application has been dismissed by this Court on 29.12.2020.

6. In view of the foregoing discussions and in absence of any substantial change in the circumstances after rejection of the last bail application of the petitioner on merits by this Court on 29.12.2020 and particularly, keeping in view the gravity of offence, this Court is not inclined to reconsider his prayer for release on bail pending trial.

7. At this stage, learned counsel for the petitioner prays for withdrawal of this petition with a prayer for a direction to the trial court to conclude the trial in a time bound manner.

8. The prayer of the learned counsel for the petitioner is accepted and this petition is dismissed as withdrawn. However, keeping in view the period of detention of the petitioner for the last about two years in judicial custody and snail speed at which the trial of the case has been proceeding so far, the fact that the prosecution is likely to examine 10 more remaining witnesses as only 4 witnesses have been examined so far, the trial court is directed to take effective step(s) to ensure the attendance of the remaining unexamined witnesses and to expedite and conclude the trial within three months from the next date fixed before it i.e. 28.09.2021. The prosecution would also make sincere efforts in producing its remaining unexamined witnesses on the date of hearing(s)

before the trial court.

9. With the aforesaid directions, this petition is accordingly disposed of.

September 15, 2021
rishu/MFK

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No