

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

CRM-M-36035-2021(O&M)

Date of Decision:. 22.11.2021

Sanjay

..... Petitioner

versus

State of U.T.Chandigarh

..... Respondent

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Sandeep Gahlawat, Advocate for the petitioner.

Mr.A.M.Punchhi, Public Prosecutor, UT, Chandigarh.

TEJINDER SINGH DHINDSA, J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

CRM-36840-2021

Application is allowed as prayed for.

The accompanying document i.e. copy of statement of complainant before the trial Court as PW1, is taken on record as Annexure P-15.

Application disposed of.

Main case

This is the second petition preferred by the petitioner under Section 439 Cr.P.C. seeking regular bail pending trial in FIR No. 116 dated 24.06.2020, under Sections 376, 506 IPC and Section 4 of the POCSO Act, 2012 (however charges have been framed for the offence punishable under Sections 376 (2) (n), 506 IPC and Section 6 of the POCSO Act, 2012),

registered at Police Station East Sector 26, U.T.Chandigarh.

I have heard Mr.Sandeep Gahlawat, counsel for the petitioner as also Mr.A.M.Punchhi, learned Public Prosecutor, U.T., Chandigarh at length.

Apparently the prosecutrix in the present case, who was alleged to be 17 years, delivered a male child at Government Hospital, Sector 16, Chandigarh on 24.06.2020. FIR is also of the same date on her statement that she was taken to the hospital as she felt some pain in her stomach. She named the present petitioner to be resident of Bapu Dham and to be a childhood friend. She further asserted that about a year back, petitioner had taken her to some body's house in Bapu Dham Colony itself on the pretext of playing and forcibly established physical relations. Such act was alleged to have been repeated 5-7 times over. Prosecutrix further stated that such incident had not been disclosed as the petitioner had threatened to kill her otherwise.

Petitioner was arrested on 24.06.2020 itself.

The statement recorded of the prosecutrix on 04.07.2020 under Section 164 Cr.P.C. has been read out and as per which the physical relations were consensual.

Investigation having been completed, challan was presented.

Counsel for the petitioner has adverted to the final investigation report and the contents of which reveal that as per the DNA Profile Report, present petitioner has not been found to be the biological father of the male baby.

It has also gone uncontroverted that during the course of trial the prosecutrix has been examined and her statement stands recorded as

PW1. In such statement the prosecutrix has now introduced the name of another boy namely Aman and has alleged that he had also committed forcible sexual assault.

Court has been informed that out of 20 prosecution witnesses cited, three have been examined (including the prosecutrix) and two witnesses have been given up.

Trial as such would take time to conclude.

In view of the circumstances and submissions recorded herein above, debatable issues arise and which would be considered by the trial Court. Petitioner has already faced incarceration over a period of 17 months approximately.

No case has been made out that if the concession of bail were to be granted to the petitioner, he would be in a position to hamper the course of a free and fair trial.

Without opining on the merits of the case , the instant petition seeking regular bail is accepted.

Petitioner be enlarged on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, U.T., Chandigarh.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

22.11.2021
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No