

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.216

CRM-M-36123-2020

Date of decision : 21.01.2021

Gobinder Singh @ Haria @ Kaka

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Abhishek Goyal, Advocate, for the petitioner.

Mr.Balbir Singh Sewak, Addl.A.G., Punjab.

DEEPAK SIBAL, J. (Oral)

Case taken up through video conferencing.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.350 dated 04.12.2019, registered under Sections 363/366A/376(2)N/109 IPC and Sections 4/6/17 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Sadar Dhuri, district Sangrur.

Briefly stated, the petitioner is being prosecuted for having raped the prosecutrix who is a minor girl.

Seeking regular bail for the petitioner learned counsel submits that the petitioner has been falsely implicated; he is in custody since 10.12.2019; he is not involved in any other criminal case; the prosecutrix has already been examined before the Trial Court therefore, the petitioner is not in a position to influence the trial; on comparison of the statement of the prosecutrix under Section 164 Cr.P.C. with her statement made before the Trial Court there are found material contradictions as under Section 164 Cr.P.C she had stated that Sukhi Singh took her from her house whereas while appearing before the Trial Court she has stated that Sukhi Singh had sent some unknown persons to pick her up; while appearing before the Trial Court the prosecutrix even failed to recognise Sukhi Singh which discredits her story; the alleged rape by the petitioner was on the night of

02/03.12.2019 whereas on 04.12.2019 when the prosecutrix was medically examined she stated before the doctor that she does not remember whether there was any penetration in her private parts and that the medical record further does not reveal any injury in her vaginal area.

Learned State counsel opposes the grant of bail to the petitioner on the ground that he has raped a minor girl.

The alleged contradictions in the prosecutrix's statements and her afore statements as recorded in her medical record would be considered and decided in the petitioner's trial. However, the petitioner has already been in custody since 10.12.2019; he is not involved in any other criminal case; the prosecutrix has already been examined and that the petitioner's trial, which is yet to commence, is likely to take a long time to conclude especially in the present circumstances when the world is facing the COVID-19 pandemic.

In view of the above, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Sangrur the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

21.01.2021
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[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No