

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM Nos.34619 and 34621 of 2021 in/and
CRM-M-41004 of 2021 (O&M)
Date of Decision: November 08, 2021

Amit Kumar

...Petitioner

Versus

State of U.T. Chandigarh

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ashit Malik, Advocate
for the petitioner.

Mr. A.M. Punchhi, P.P., U.T., Chandigarh.

JAISHREE THAKUR, J. (Oral)

CRM-34621-2021

This is an application that has been filed seeking to prepone hearing in the main case, which is now listed for 16.12.2021.

For the reasons mentioned in the application, the same is allowed. Hearing in the main case is preponed and the same is taken up for hearing today.

CRM-34619-2021

Allowed as prayed for.

Annexure P-8 is taken on record, subject to all just exceptions.

CRM-M-41004-2021

This is *second* petition that has been filed under Section 439 Cr.P.C. for grant of regular bail in FIR No.250 dated 30.09.2019, registered under Section 376(3) of Indian Penal Code and Section 4 of POCSO Act at Police Station Sector 31, Chandigarh.

Learned counsel appearing on behalf of the petitioner would contend that statement of the prosecutrix has been recorded as well as other material witnesses, therefore, custody of the petitioner herein is no longer required. It is also argued that though DNA report would match that of the petitioner, however, the prosecutrix herein has not supported her statement given under Section 164 Cr.P.C. and during her cross-examination, she failed to identify the clothes on which DNA was conducted and human semen was found.

Per contra, learned counsel for the respondent-State would submit that this was the same position when the first bail petition was argued on 30.07.2021. It is submitted that the prosecutrix is aged 15 years and there is enough scientific evidence available to substantiate the fact that offence under Section 376 of IPC read with Section 4 of POCSO Act had been committed upon the prosecutrix. It is argued that the trial is likely to complete soon as only official witnesses remain to be examined and they will be produced before the court on the next date of hearing.

I have heard learned counsel for the parties.

The first bail petition filed before this court bearing CRM-M-14260 of 2021 was withdrawn by the previous counsel on July 30, 2021 after arguing the matter (Annexure P-7) and the statement of the

prosecutrix, as relied upon by counsel for the petitioner, was also available in the file of previous bail application. This second petition has been filed 28.09.2021 after withdrawal of the first bail petition on 30.07.2021. This court finds no change in circumstances which warrants interference by this court. Accordingly, the instant second petition for grant of anticipatory bail is hereby dismissed.

November 08, 2021
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No