

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214+104

CRM-M-37801-2020(O&M)

Date of Decision:19.03.2021

Vaid Gurjit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Surmeet Singh Sandhu, Advocate for
Mr. Gagneshwar Walia, Advocate,
for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

HARI PAL VERMA, J.(Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

CRM-29647-2020

Prayer in this application filed under Section 482 Cr.P.C. is for placing on record the documents(Annexures P-7 to P-10).

For the reasons stated in the application, same is allowed and the the documents(Annexures P-7 to P-10), are ordered to be permitted to be taken on record.

CRM-1195-2021

Prayer in this application filed under Section 482 Cr.P.C. is for placing on record the document(Annexure P-11).

For the reasons stated in the application, same is allowed and the the document(Annexure P-11), is ordered to be permitted to be taken on

record.

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner during trial in case FIR No.75 dated 12.05.2019 under Section 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Sadar Nabha, District Patiala.

As per FIR, when the prosecutrix was ill, the petitioner treated her with acupressure and she felt little better. Thereafter, the prosecutrix, her brother Manjit Singh and mother Shinderpal Kaur kept on visiting at the shop of the petitioner for treatment. On 06.05.2019, the prosecutrix and her brother Manjit Singh have gone to the shop of Vaid, where the petitioner and his helper was present. He asked Manjit Singh to stay outside as he wanted to ascertain perfect knowledge from his sister about her illness as she would not be able to tell complete facts in the presence of Manjit Singh. On the saying of Vaid, Manjit Singh had to walk outside. Thereafter, the petitioner gave her one glass of water to drink by dissolving some substance in it. Consequently, she lost her senses and failed to realize about the deed committed by the petitioner during that period, when she was unconscious. After some time, when the prosecutrix gained a little consciousness, Manjit Singh had made a telephonic call to Joga Singh to take them back. Joga Singh took them back to home. The prosecutrix was feeling continuous pain and when she came back to her home, she noticed that her *salwar* was drenched in blood. She realized that the petitioner without her consent had committed some wrong act with her.

Learned counsel for the petitioner has argued that the petitioner has falsely been implicated in the case and he is in custody since

07.06.2019. Nothing has been recovered from the petitioner. He submits that challan has been presented in the case. Even statement of the prosecutrix has been recorded. He has further argued that the alleged occurrence is of 06.05.2019, whereas the present FIR has been registered against the petitioner on 12.05.2019 and the prosecutrix was medically examined on the same day i.e. 12.05.2019. He refers to Parikh's Textbook of Medical Jurisprudence Forensic Medicine and Toxicology to contend that normally sperms remain motile in the vagina for about six to eight hours and occasionally 12 hours. Non-motile forms of spermatozoa are detectable for about 24 hours with occasional reports of 48 to 72 hours and very rarely 96 hours. Motility persists longer at normal body temperature. In the case in hand, spermatozoa was found and as per the Medical Jurisprudence, it cannot be found after the outer limit of 96 hours, whereas the alleged occurrence has taken place on 06.05.2019 and the FIR has been registered on 12.05.2019 and she was medically examined on the same day. There is no DNA report to establish that the petitioner had committed sexual assault on the prosecutrix.

Learned State Counsel, on instructions from ASI Buta Singh, does not dispute the custody period and the fact that no DNA report has been received in the case.

Heard learned counsel for the parties.

Petitioner is in custody since 07.06.2019. The alleged occurrence has taken place on 06.05.2019, whereas the FIR has been registered against the petitioner on 12.05.2019 i.e. after a delay of about 06 days. Moreover, no DNA report has been received in the case. Trial in the case is not likely to be concluded in the near future. Thus, this Court deems

it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to his furnishing of adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

However, it is made clear that the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

It is made clear that the petitioner shall not stay in the same vicinity/village for a period of one year, where the prosecutrix is residing. He shall not make any effort to contact the prosecutrix. He shall not influence the witnesses directly or indirectly, in any manner.

March 19, 2021
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No