

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-49861-2021 (O&M)
Date of Decision:-9.12.2021

Avtar Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ranjit Singh Ghuman, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

GURVINDER SINGH GILL, J.(Oral)

CRM-41765-2021

In view of the reasons mentioned in the application, the same is allowed and the documents annexed with the application are taken on record as Annexures P-10 to P-12 subject to all just exceptions.

CRM-M-49861-2021 (Main Case)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.0129 dated 7.9.2021 at Police Station Sidhwan Bet, District Ludhiana under Sections 376 and 506 of Indian Penal Code.

2. The FIR was lodged at the instance of the victim, wherein it is alleged that she had been raped by the petitioner on 6.9.2021.
3. Learned counsel for the petitioner submits that a false FIR has been lodged against the petitioner and that falsity of the case would be evident from the fact that when the victim/prosecutrix was examined before the Trial Court during the proceedings of trial, she absolutely resiled from her statement. Learned counsel, in this regard, has referred to the statement dated 22.11.2021 (Annexure P-10) of the prosecutrix, a perusal of which does show that the prosecutrix has not supported the case of prosecution and was declared hostile.
4. It has also been submitted that even on an earlier occasion, the same very prosecutrix had lodged an FIR i.e. FIR No.0025 dated 28.2.2019 at Police Station Sarabha Nagar under Sections 376, 506 and 323 of Indian Penal Code against one Talwinder Singh @ Baaz but even in the said case, she had resiled, when her statement was recorded before the Trial Court. Learned counsel for the petitioner, in this regard, has drawn the attention of this Court to statement dated 16.3.2020 (Annexure P-6).
5. On the other hand, learned State counsel has opposed the petition on the ground that since specific allegations have been levelled in the FIR and infact the statement of the prosecutrix was also recorded in terms of Section 164 Cr.P.C., wherein she reiterated the allegations against the petitioner, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner has been behind bars since the last about 3 months.

6. I have considered rival submissions addressed before this Court and have also perused the statement dated 16.3.2020 (Annexure P-6) recorded in the earlier case as well as the statement 22.11.2021 (Annexure P-10) recorded in the present case, indicating that she has resiled in the present case as well as in the earlier case.
7. In view of the aforestated position, wherein the prosecutrix has resiled from her statement and has not supported the case of the prosecution and that challan already stands presented, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9.12.2021

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No