

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

CRM-M-1898-2022

Date of Decision: 27.07.2022

JAGDISH SINGH

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Amaninder Singh Sekho, Advocate, for the petitioner.

Mr. Hittan Nehra, Additional Advocate General, Punjab.

VIVEK PURI, J.(ORAL)

The petitioner is seeking regular bail in case bearing FIR No.126 dated 15.06.2021 under Sections 376/511/354-B/506 IPC and Section 18 of POCSO Act registered at Police Station Sadar, Sri Muktsar Sahib.

Custody certificate has been placed on record.

Briefly, the allegations are to the effect that on 14.06.2021, the victim, aged about 14 years, was present in the house. The petitioner alongwith co-accused, namely, Gurpreet Singh entered the room where the victim was sleeping after scaling the wall. The petitioner gagged the mouth and Gurpreet Singh did indecent act and made an attempt to commit rape upon the victim. She raised alarm and the assailants slipped away.

Learned counsel for the petitioner contends that the petitioner is in custody for a period of 01 year, 01 month and 02 days. The allegations against the petitioner are to the effect that he has gagged the mouth of the victim. The allegation with regard to attempt to commit rape has not been attributed against him. The statements of the victim as well as her mother i.e. the complainant have been recorded during the course of trial and out of

17, only 02 witnesses have been examined so far.

Learned State counsel has opposed the bail application primarily on the ground that there are serious allegations levelled against the petitioner and the victim was 14 years old at the time of occurrence.

Be that as it may, the statements of the victim as well as her mother i.e. complainant, during the course of trial, have been recorded. Furthermore, the allegations against the petitioner are to the effect that he had gagged the mouth of the victim. The allegations with regard to attempt to commit rape have not been attributed to the petitioner. The petitioner is in custody for a period of 01 year, 01 month and 02 days. Custody certificate indicates that the petitioner is not involved in any other case. So far, out of 17, only 02 witnesses have been examined. The conclusion of trial is likely to take some time and no fruitful purpose will be served by detaining the petitioner in further custody.

In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Illaqa Magistrate/Duty Magistrate.

Before parting with this order, it may be mentioned here that at the earlier instance an affidavit of Amarjit Singh, Deputy Superintendent of Police, Sub Division Sri Muktsar Sahib, was placed on record which depicted factually incorrect position as far as the aspect of recording of statement of the victim and complainant in the trial Court was concerned.

In terms of order dated 08.07.2022, it was observed that an attempt is being made to shift the onus upon ASI Balwant Singh and Amarjit Singh,

Deputy Superintendent of Police should go escort free. It was sought to be projected that ASI Balwant Singh had submitted wrong information to Amarjit Singh, Deputy Superintendent of Police and informed that the statements of the victim and complainant were yet to be recorded and said aspect was factually incorrect.

Today, an affidavit of Dhruvan H. Nimbale, Senior Superintendent of Police, District Sri Muktsar Sahib has been placed on record.

Learned State counsel submits that it is contemplated that the inquiry against ASI Balwant Singh is to be dropped.

The affidavit placed on record indicates that Amarjit Singh, Deputy Superintendent of Police, being the supervisory officer, was duty bound to verify the facts and status of the case from the police file. After considering the lackadaisical and negligent attitude of Amarjit Singh, Deputy Superintendent of Police, a show cause notice has been issued to him.

Be put up on 01.11.2022.

The action taken report on the show cause notice/interim report be submitted in the meanwhile.

27.07.2022
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No