

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(228)

CRM-M-2329-2022 (O&M)

Date of decision:- 14.09.2022

Deepak Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Puja Chopra, Advocate with
Ms. Sandeep Chopra, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab
for State-respondent.

...

SUVIR SEHGAL, J. (ORAL)

CRM-18321-2022 and CRM-27136-2022

Applications are allowed as prayed for.

Annexures P-15 to P-28 are taken on record.

CRM-M-2329-2022 (O&M)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short "the Code") seeking grant of post-arrest bail in case FIR No. 172 dated 27.08.2021, registered for offences under Sections 376 of the Indian Penal Code, 1860 and Section 4 of the Protection of Children from Sexual Offences Act, 2012, at Police Station Urban Estate Patiala, District Patiala, Annexure P-1.

Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of a 16 year old girl (for short “the prosecutrix”) on the allegation that on 23.08.2021, she came to Patiala to a friend's house. She came in contact with Deepak Kumar, present petitioner, on social media on 26.08.2021, who invited her for lunch and then took her to a room and sexually assaulted her. He later left her near Punjabi University, Patiala.

By referring to the medical reports, Annexure P-11 to P-13, counsel for the petitioner contends that the allegations levelled by the prosecutrix are not supported from the medical record. Counsel submits that the the prosecutrix has lodged similar FIRs against some other innocent boys also. She submits that the prosecutrix has been examined and although she has supported the allegations, but she has failed to identify the petitioner. By referring to Aadhar Cards, Annexures P-5 and P-7, counsel submits that the prosecutrix has given different dates on both documents. She asserts that the petitioner, who is in custody since 28.08.2021 and has a clean past, deserves to be enlarged on bail.

Per contra, learned State counsel, upon instructions from ASI, Vikramjit, has opposed the petition and has submitted that there are categoric allegations against the petitioner. By referring to the statement of the prosecutrix recorded under Section 164 of the Code, he submits that though she has supported the allegations, yet she has requested that she does not want to take any action against the petitioner. As per his instructions, seven out of eighteen prosecution witnesses have been examined.

Having heard counsel for the parties and considering the fact that the prosecutrix has been examined, this Court is prima facie of the view that the age of the prosecutrix and culpability of the petitioner in the offence would remain a subject matter of debate before the Trial Court. The petitioner, who is in custody for the last more than one year, would be entitled to be released on bail as the prosecution has to examine eleven more witnesses and the trial is not likely to conclude in the near future.

Without adverting to the merits or demerits of the arguments addressed, petition is allowed. Petitioner is ordered to be released on bail during the pendency of trial, on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

14.09.2022

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No