

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

CRM-M-5252 of 2022 (O&M)

DECIDED ON: 18th April, 2022

Nirmal Singh

.....PETITIONER

VERSUS

State of Punjab

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. A.S. Brar, Advocate for petitioner.

Mr. Sandeep Kumar, DAG Punjab.

AVNEESH JHINGAN, J (ORAL)

This petition under Section 439 Cr.P.C. is filed seeking regular bail in case of FIR No.113 dated 8.7.2021, under Sections 377, 506 IPC and Section 3,4 of POCSO Act, 2012 (Section 3 POCSO Act deleted and Section 3 of the SC/ST Act added lateron), registered at Police Station Nihal Singh Wala, District Moga.

The FIR was registered at the instance of victim (name withheld) where he stated that the accused (petitioner) had committed unnatural act with him in the backside of Gurudwara Sahib and also threatened not to disclose the incident to anyone.

Learned counsel for the petitioner submits that it is a case of false implication. The petitioner is a retired army personnel. He is in custody since 9.7.2021. The petitioner was granted interim bail and there is no allegation of mis-utilization of interim bail granted. It is further argued that neither the victim nor the material witnesses had supported the case of the prosecution.

Learned State counsel opposes the prayer and on instructions from ASI Jatinder Kumar submits that the DNA report has been received and no human semen was detected on the exhibits. Copy of DNA report is produced.

This Court granted interim bail on 11.2.2022 considering non availability of DNA report.

No comments are made upon the merits of the case or on the deposition made by the victim or the material witnesses; there is no allegation of mis-utilisation of interim bail; victim and material witnesses have been examined; no useful purpose would be served by keeping the petitioner behind the bars, he has no criminal antecedents, bail is granted to the petitioner on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

18th April, 2022

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**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*