

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

**CRM-M-4562-2021**

**Date of Decision: 25.02.2022**

**MANINDER SINGH**

**... PETITIONER**

**VS.**

**STATE OF PUNJAB**

**.. RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE VIVEK PURI**

Present : Mr. Deepak Saini, Advocate, for the petitioner.

Ms. Ruchika Sabherwal, AAG, Punjab.

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**VIVEK PURI, J.(ORAL)**

The matter has been taken up through video-conferencing due to COVID-19 pandemic.

Custody certificate of the petitioner has been placed on record.

Through instant petition, the petitioner is seeking regular bail in case bearing FIR No.0067 dated 02.09.2019 under Sections 363/366 (Sections 365 and 376 IPC added later on), registered at Police Station Ghanaur, Patiala.

Briefly, the case has been registered on the basis of the statement of the father of the prosecutrix alleging that the prosecutrix is aged 18 years and during the night hours on 01.09.2019, she went missing from the house. It was suspected that the petitioner has abducted her.

Learned counsel for the petitioner contends that at the first instance, the statement of the prosecutrix under Section 161 Cr.P.C. was recorded, wherein, she never levelled any allegation of commission of sexual intercourse or introduced any other person other than the petitioner in commission of crime. Even in the statement under Section 164 Cr.P.C, no such version was given and an improved version was introduced to the effect that on the next morning, the prosecutrix was found lying near Gurudwara Dukhniwaran Sahib. However, the statement recorded during the course of trial, the prosecutrix has levelled allegations of commission of forcible sexual intercourse against the petitioner and another person. It has been further stated that statement of the prosecutrix has been recorded, out of 17, only 05 witnesses have been examined and the petitioner is in custody for a period of 02 years, 05 months and 21 days.

Learned State counsel, on the instructions from ASI Swarn Singh, has not assailed the aforesaid factual aspects, but has opposed the bail application on the score that in the report of Chemical Examiner, spermatozoa were detected.

It is significant to note that the prosecutrix is giving improved and contradictory version in different stages of investigation and trial. In such circumstances, the genuineness of the allegations with regard to the commission of forcible sexual intercourse will be a matter of debate in the trial Court. It has also not been disputed that the age of the prosecutrix exceeded eighteen years at the time of occurrence. The petitioner is in custody for a period of 02 years, 05 months and 21 days. Only 05 out of 17 witnesses have been examined so far. The prosecutrix has already been examined during the course of trial. Furthermore, the conclusion of trial is likely to take some time and no fruitful purpose will be served by detaining the petitioner behind the bars.

Keeping in view the entire facts and circumstances emerging in the case and the period of incarceration undergone by the petitioner, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Accordingly, 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 Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate/trial Court.

However, the aforesaid observations have only been circumscribed for the disposal of bail application and are not to be construed as an opinion on the merits of the case.

**25.02.2022**  
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**(VIVEK PURI)**  
**JUDGE**

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