

CRM-M-4398-2021

Date of Decision: 14.10.2022

UPINDER SINGH @ PINDER

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Barjinder Singh, Advocate for
Mr. H.S.Mann, Advocate for the petitioner.
Mr. Hittan Nehra, Addl. A.G. Punjab.

* * *

VIVEK PURI, J. (ORAL)

Custody certificate has been taken on record.

The petitioner is seeking regular bail in case bearing FIR No.193 dated 13.08.2019 under Sections 363, 366-A IPC, Section 8 of Protection of Children from Sexual Offences Act and Section 376(d), 120-B IPC added later on registered at Police Station Beas, District Amritsar.

Learned counsel for the petitioner contends that the FIR has been registered at the instance of the mother of the victim alleging that the victim was kidnapped by some persons in a white coloured vehicle. The petitioner has been allegedly identified with a tattoo mark '*aujla*' on his arm. In the initial statement of the victim recorded during the course of investigation, she has not levelled any allegation with regard to commission of penetrative sexual assault. Such an allegation has been spelt out in the supplementary statement of the victim. The victim and her mother have not supported the prosecution version during the course of trial and have not imputed any allegation against the petitioner. The petitioner is in custody for a period of 3 years and 9 days and is not involved in any other case.

Although, in the reply submitted by the State, it has been mentioned

that the victim and her mother have supported the prosecution version but on the previous date of hearing, learned State counsel had sought time to verify this aspect of the matter and get instructions.

Learned State counsel, on instructions of ASI Gurmeet Singh, has fairly submitted that the aforesaid factual aspect has been wrongly mentioned in the reply and in fact, the victim and her mother have not supported the prosecution version. So far, only 6 out of 18 witnesses have been examined. It has been further submitted that there are 6 persons who have been arraigned as accused in the instant case and other 5 are on bail. However, the bail has been mainly opposed on the ground that the victim was less than 18 years of age.

It may be mentioned here that the victim and her mother have not supported the prosecution version. The petitioner is in custody for a period of 3 years and 9 days and is not involved in any other case. The co-accused are stated to be on bail. So far, only 6 out of 18 witnesses have been examined. The conclusion of trial is likely to take some more time and no fruitful purpose would be served by detaining the petitioner in further custody.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

(VIVEK PURI)
JUDGE

14.10.2022

Janki

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No