

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

-.-

**CRM-M No.5428 of 2021
Date of Decision : 11.07.2022**

Jaspal

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. K.S.Bal, Advocate for the petitioner.

Ms. Rukhsaar Dhindsa, AAG Punjab.

ALKA SARIN, J. (Oral)

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.76 dated 19.07.2019 under Sections 376, 506 of the Indian Penal Code, 1860 registered at Police Station Khilchain, Amritsar Rural, Amritsar.

The first petition for grant of regular bail filed by the petitioner being CRM-M-16992-2020 was dismissed as withdrawn vide order dated 05.10.2020 primarily on the ground that petition for grant of anticipatory bail being CRM-M-51129-2019 was pending and no mention of the same had been mentioned in the petition.

Learned counsel for the petitioner would contend that the petitioner has been in custody now for a period of 02 years, 04 months and 26 days. It is further the contention of the learned counsel for the petitioner that the petitioner is a married man and the complainant is also married to

one Parminder Singh. It is further the contention of the learned counsel that in the FIR it has been alleged that the petitioner and the complainant had relations even prior in time, however, on 09.06.2019 the petitioner committed rape upon the complainant. Though the date of the incident is alleged to be 09.06.2019, the FIR itself was lodged on 19.07.2019 i.e. after a delay of more than one month. Learned counsel would further contend that the statement of the Prosecutrix has since been recorded and no useful purpose would be served by keeping the petitioner behind the bars any longer.

A status report has been filed on behalf of the State by way of affidavit of Sh. Surinderpal, PPS, DSP, Sub-Division Baba Bakala Sahib, District Amritsar Rural wherein it has been stated in para-4 that the statement of the complainant was recorded under Section 164 CrPC on 20.07.2019 and the medical examination was also conducted on 20.07.2019 at Civil Hospital, Baba Bakala Sahib i.e. over a month after the alleged occurrence. The custody certificate filed by the counsel for the State reveals that the petitioner has now been in custody for a period of 02 years, 04 months and 26 days and there is no other case pending against the petitioner barring one qua the proclaimed offender proceedings.

The challan in the present case was presented on 26.02.2020 and till today only 02 witnesses out of 18 witnesses have been examined. Trial is likely to take some time and the Prosecutrix in the present case has already been examined. No useful purpose would be served by keeping the petitioner in custody any longer.

In view of the above, I deem this to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off.

July 11, 2022
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO