

CRM-M-8625-2022

Date of decision: 07.03.2022

BALDEV SINGH @ LUCKY

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Rahul Jaiswal, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, AAG, Punjab.

(The case has been taken up through video conferencing on account of Covid-19 Pandemic).

VIVEK PURI, J. (ORAL)

Custody certificate of the petitioner has been circulated through email today and the same is taken on record.

Baldev Singh @ Lucky-petitioner is seeking regular bail in the case bearing FIR No. 142 dated 05.07.2021 under Sections 354-A/354-D/506 IPC, 1860, and Section 4 of POCSO Act, 2012 (added later on) and Section 12 of POCSO Act, 2012 (added later on at the time of charge framing) registered at Police Station City Rajpura, District Patiala.

Briefly, the case has been registered on the basis of the statement of prosecutrix alleging that on 03.0.2021 at about 08:30 PM, she received a telephonic call from the petitioner asking her to develop illicit relations with him, failing which he threatened to kill her. The prosecutrix became tense, consumed some sleeping pills and jumped from the roof of the house.

Learned counsel for the petitioner contends that at the first instance, the case was registered under Section 354-A/354-B/506 IPC and the petitioner

statement of the prosecutrix was recorded on 08.07.2021 wherein she levelled allegations to the effect that the petitioner had been following her and about 02 years ago, by threatening at knife point, she was made to consume cold drink containing intoxicant substance and she became unconscious. When she regained consciousness, she came to know that the petitioner had established physical relation with her. He further contends that the allegations levelled in the supplementary statement with regard to the commission of rape pertain to the period of 02 years prior to the occurrence and there is no medical evidence to support the version of the prosecutrix. Moreover, the penal provisions of Section 4 of POCSO Act, 2012 are not attracted as the date of birth of the victim is 11.04.2003 as depicted in the school certificate dated 08.05.2019 (Annexure P-3). The statement of the prosecutrix has already been recorded during the course of trial.

Learned State counsel has resisted the bail application on the score that the allegations with regard to the commission of rape pertain to the period of 02 years prior to the registration of FIR and as such the prosecutrix was less than 18 years of age at that time.

Learned trial Court had primarily dismissed the bail application on the score that the prosecutrix was yet to be examined.

It is significant to note that no allegations of commission of rape were levelled in the first version on the basis whereof the FIR was registered. The allegations of rape pertain to the period prior to 02 years from the occurrence and that too have emerged in the supplementary statement recorded after 04 days from registration of FIR. The statement of the prosecutrix has already been recorded during the course of trial.

It has been pointed out by the learned State counsel that out of 19, 04

custody for a period of 07 months and 28 days. Moreover, there is no supporting medical evidence to indicate the commission of rape. As such, no fruitful purpose will be served by detaining the petitioner in further custody and sufficient mitigating circumstances are made out to extend the concession of the bail to the petitioner.

Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

07.03.2022
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(VIVEK PURI)
JUDGE

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