

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

1.

CRM-M-13244-2021

Rohit Madan @ Rohit Madaan

.... Petitioner

versus

State of Punjab and another

.... Respondents

2.

CRM-M-21191-2021

Sunny Romana @ Sandeep Singh

....Petitioner

versus

State of Punjab

....Respondent

Date of decision : 04.02.2022

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Amaninder Singh Sekhon, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

RAJESH BHARDWAJ, J.

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The above two regular bail petitions of the petitioners namely, Rohit Madan @ Rohit Madaan and Sunny Romana @ Sandeep Singh under Section 439 Cr.P.C. having been arisen out of the same FIR bearing No.213 dated 30.09.2017, registered under Sections 376, 120-B of the Indian Penal Code, 1860 and Sections 5 and 6 of the Protection of Children from Sexual Offence Act, 2012 and under Section 506 of Indian

Penal Code added later on, at Police Station City Faridkot, District Faridkot, are being taken up together.

As per the factual matrix of the case, the present FIR was lodged by the prosecutrix/victim (name concealed). It was alleged that she was 14 years of age and studying in Little Angles School in 9th Class. Harpreet Singh @ Happy son of Bhola Singh was her neighbourer. About five months ago, her mother went to their relations due to the death of their relatives and she was alone at home. Harpreet Singh @ Happy came to her home by scaling over the boundary wall and committed rape upon her without her consent. After this occurrence, she told about the same to Navjot Kaur @ Jyoti, sister of Harpreet Singh @ Happy. She told her that she would facilitate her marriage with her brother Harpreet Singh @ Happy. About three months ago, Navjot Kaur @ Jyoti threatened her to develop relations with one Rohit Madaan and then Rohit Madaan also committed rape upon her. Navjot Kaur @ Jyoti sent her to one Sunny Romana, who also committed rape upon her. Due to fear, she did not disclose about the occurrence to her family members but later on, she disclosed about the occurrence to her mother. Resultantly, they went to the police station to lodge a report and her statement was recorded. The request was made to take the legal action against the culprits. The investigation commenced and resultantly, both the petitioners namely, Rohit Madan @ Rohit Madaan was arrested on 18.09.2020 and Sunny Romana @ Sandeep Singh was arrested on 20.11.2020. Petitioner-Rohit Madan @ Rohit Madaan approached the learned Additional Sessions Judge, Faridkot for grant of anticipatory bail, who after hearing counsel for the parties, rejected the same vide his order dated 4th January, 2019.

Similarly, petitioner Sunny Romana @ Sandeep Singh also approached the learned Sessions Judge, Faridkot for grant of regular bail under Section 439 Cr.P.C, who after hearing counsel for the parties, declined the same vide his order dated 8th March, 2021. Aggrieved by the same, both the petitioners approached this Court by way of filing the present petitions.

Learned counsel for the petitioners has vehemently contended that the petitioners have been falsely implicated in the case. He submits that in all, there were four accused named in the initial version by the victim. However, during investigation, the challan was presented only against one of them and the petitioners were found innocent. However, when the trial commenced, the application under Section 319 Cr.P.C. was filed and both the petitioners were summoned to face the trial. He has submitted that out of four accused, the other two accused are already enlarged on bail. He submits that from the perusal of the allegations made in the FIR, the role of the present petitioners is not grave than the co-accused who had already been granted bail by the Court. He further submits that the false implication of both the petitioners is further strengthened from the very fact that the material witnesses i.e. the victim and her mother have been examined by the trial Court as PW-4 and PW-5, respectively and their testimonies have been placed on record. He has drawn the attention of this Court to their depositions made in the Court. He submits that both of them have not supported the case of the prosecution. Hence, on the request of the Additional Public Prosecutor for the State they have been declared hostile. He submits that as the material witnesses have not supported the case of the prosecution, the

prosecution is left with no other reliable evidence and hence, further incarceration of the petitioners is unwarranted.

Learned State counsel has vehemently opposed the submissions made by counsel for the petitioners. She submits that the victim is minor and the allegations are very specific for the heinous offence committed against her. The victim was less than 15 years of age at the time of occurrence. It has been brought to the notice of this Court that petitioner-Sunny Romana @ Sandeep Singh was evading his arrest and he was declared proclaimed offender on 15.11.2019. Thereafter, he was arrested on 20.11.2020. The custody certificate of the petitioner has been placed on record which shows that petitioner is behind the bars since 20.11.2020 and his actual sentence undergone is 1 year, 2 months 11 days upto 31st January, 2022. It further shows that there is no other case pending against the petitioner-Sunny Romana @ Sandeep Singh. She further submits that petitioner-Rohit Madan @ Rohit Madaan was also declared Proclaimed Offender on 15.11.2019 and he was arrested on 18.09.2020. His custody certificate is also placed on record. Attention of the Court is drawn to the same. It has been submitted that besides this case, there are further seven cases in which the petitioner-Rohit Madan @ Rohit Madaan has been prosecuted. She candidly acknowledge that the other two co-accused are already on bail. However, the present petitioners were declared proclaimed offender on earlier occasions and in view of their conduct, they do not deserve the concession of bail.

I have heard learned counsel for the parties and gone through the records.

There is no gainsaying that the victim in the case is a minor.

As per the facts on record, in all there were four accused initially. On the conclusion of the investigation, the challan was presented only against one of them. But, rest three including both the petitioners were kept in Column No.2. However, during the course of the trial, both the petitioners were summoned under Section 319 Cr.P.C. and were declared Proclaimed Offender and were subsequently, arrested. It is further evident that now victim as well as her mother have been examined by the trial Court as PW-4 and PW-5. Their depositions before the trial Court would read that some unknown person after scaling the wall, came into their house and forcibly committed rape upon the victim. It is further deposed that she is totally clear that accused present in the court has not committed rape upon her and the real culprit was unknown. She did not know the accused present in the Court. Further, other two co-accused have already been granted bail. After evaluating the rival submissions, it is evident that petitioner-Sunny Romana @ Sandeep Singh is behind bars since 20.11.2020 and the custody certificate shows that there is no other case pending against him. Hence, I am of the opinion that learned counsel for petitioner succeeds in making out a case for grant of bail for petitioner-Sunny Romana @ Sandeep Singh. In the overall facts and circumstances of the case, it is apparent that the trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time. Accordingly, the petition No.CRM-M-21191 of 2021 is allowed and the said petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

No doubt, petitioner-Rohit Madan @ Rohit Madaan is behind the bars since 18.09.2020. However, his custody certificate placed on record shows that besides this case, he has been prosecuted in seven other cases as well. The perusal of the custody certificate would reveal that he is being prosecuted for the offences under Sections 307, 379 and 399 of the Indian Penal Code. In four of these cases, he is on bail and in two of them he has been acquitted.

Keeping in view the overall facts and circumstances and the antecedents of the petitioner, I am of the opinion that petitioner-Rohit Madan @ Rohit Madaan does not deserve the concession of bail. Hence, petition i.e. CRM-M-13244-2021 filed by him being devoid of any merits is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

04.02.2022
m. sharma

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