

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

219

CRM-M-10813 of 2022
Date of decision:17.03.2022

Joginder Paswana

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. F.S.Virk, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 439 Cr.P.C seeking grant of regular bail to the petitioner in case FIR No.72 dated 24.07.2018 registered under Sections 376, 354, 506 of Indian Penal Code, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012 at Police Station Division No.4, District Patiala (Annexure P-1).

FIR (Annexure P-1) has been registered on the statement of 13 years old girl (hereinafter referred to as “the prosecutrix”) on the allegation that she is a student of 6th class and has been working as domestic help in the house of Sunita Verma, where her son Karan, indulged in obscene acts with her. In the month of April, when both her mother and sisters went to their native village in Bihar, her father raped her and threatened to kill her

in case she discloses the incident to anyone. She became pregnant and was referred to Rajindra Hospital.

Counsel for the petitioner submits that the petitioner, who is an illiterate labourer has been falsely named in order to save Karan. He has made a reference to the testimony of the prosecutrix, wherein, she has very categorically stated that the petitioner is innocent, he never committed sexual assault with her and the actual accused is Karan Verma, who raped her twice. Counsel submits that the petitioner, who is languishing in jail since 25.07.2018, deserves to be enlarged on bail as the crucial witness has also been examined.

Per contra, State counsel upon instructions from ASI Asha, has opposed the petition and submitted that the petitioner is accused of raping his daughter, who is a minor. He has referred to the observations made by learned Additional Sessions Judge, Patiala, regarding the DNA report. As per instructions received by him, 07 out of total 21 prosecution witnesses, have been examined.

Having considered the submissions of counsel for the parties, this Court is of the view that the petitioner, who is in custody for the last more than 03 years, 07 months, would be entitled to be released on bail as the prosecutrix has been examined and the trial is likely to take time to conclude

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, **the petition is allowed** and the

petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

Let the State file an affidavit as to what action, if any, has been taken by the prosecution after the evidence of the prosecutrix.

List on 07.05.2022.

March 17, 2022
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes