

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-11075 of 2022
Date of decision:10.11.2022

Manpreet Singh @ Manna

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Jatinder Singh Gill, Advocate
for the petitioner.

Mr. Mohit Chaudhary, 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.268 dated 28.10.2020 registered under Sections 363, 366 of the Indian Penal Code, 1860 (for short "IPC"), however, offences under Section 376-D IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 were added later on, at Police Station Ghuman, Police District Batala, District Gurdaspur (Annexure P-1).

FIR (Annexure P-1) has been registered on the statement of father of a 17 year old girl (hereinafter referred to as "the prosecutrix") on the allegation that she is missing from her parental home and despite extensive search, she could not be located. He has stated that he suspects Satnam Singh son of Mangal Singh, has allured her on the pretext of marriage.

Counsel for the petitioner has contended that petitioner is not named in the FIR (Annexure P-1) and after being found, she refused to undergo medical examination. Counsel submits that statement of the prosecutrix under Section 164 Cr.P.C., which has been recorded twelve days after her recovery, on 11.11.2020, is a tutored one and she alleged that the petitioner alongwith co-accused, Judge had administered intoxicating substance, taken her to different places and she was being compelled to marry Satnam Singh. He submits that although in the statement under Section 164 Cr.P.C., she had stated that some “indecent act” had been committed with her by the petitioner, but there is no specific allegation of sexual assault. It is his argument that in her testimony, she has improved her version under influence of her parents. Counsel submits that the petitioner, who is in custody since 28.11.2020 deserves to be enlarged on bail as prosecutrix has been examined and her stand has been inconsistent.

Opposing the petition, State counsel, upon instructions from ASI Hardev Singh, has submitted that there are serious allegations against the petitioner of sexually assaulting a minor. He, however, could not dispute the fact that the prosecutrix declined to get herself medically examined. Upon further instructions, he submits that 03 out of total 24 prosecution witnesses have been examined.

Having considered the submissions made by counsel for the parties, but without adverting to the merits or demerits of the arguments addressed, this Court is *prima facie* of the view that culpability of the petitioner in the offence would remain subject matter of trial. Considering

the custody of more than 23 months, stage of trial and the fact that prosecutrix, who is the most material prosecution witness has been examined, this Court is inclined to accept the prayer made in the petition.

Petition is allowed. Petitioner is ordered to be released on bail during the pendency of the trial 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.

November 10, 2022

savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>