

CRM-M-10947 of 2022 (O&M)

{1}

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

112

CRM No.26218 of 2022 and
CRM No.26220 of 202 in/and
CRM-M-10947 of 2022
Date of decision:29.07.2022

Gurmeet Kaur alias Jyoti

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. Amandeep Singh Gill, Sr. DAG, Punjab.

SUVIR SEHGAL, J. (Oral)

CRM No.26218 of 2022

Application is allowed as prayed for.

Necessary permission is granted.

CRM No.26220 of 2022

Noticing the prayer made in the application, it is allowed.

Date of hearing of the main case is advanced to today and it is
ordered to be taken up on Board.

CRM-M-10947 of 2022

Instant petition has been filed under Section 439 Cr.P.C.,
seeking grant of regular bail to the petitioner in case FIR No.324 dated
08.12.2020 registered under Sections 363, 366-A of Indian Penal Code,
1860 (for short "IPC"), however, Sections 376, 506, 120-B IPC and Section

4 of Protection of Children from Sexual Offences Act, 2012 were added later on, at Police Station City Malout, District Sri Muktsar Sahib (Annexure P-1).

Case of the prosecution is that FIR (Annexure P-1) has been registered by the grandmother of a 15 year old girl (hereinafter referred to as “the prosecutrix”) on the allegation that her grand daughter was staying with her as her daughter had matrimonial dispute with her husband. On 07.12.2020, the prosecutrix went to the market to make some purchases, but she did not return and despite search, she could not be located. She has requested that the matter be enquired into as she suspects that her grand daughter has been allured by some unknown persons on the pretext of marriage.

By referring to the testimonies of the complainant, prosecutrix and the maternal grandfather, who have been examined as PW1 to PW3, counsel for the petitioner contends that material witnesses have not supported the case of the prosecution, rather they have categorically deposed that no objectionable act was committed with the prosecutrix. He submits that the petitioner, who is a middle aged lady and mother of the alleged main accused, Harjeet Singh, is in custody since 27.04.2021, deserves to be released on bail.

Per contra, State counsel, upon instructions from ASI Angrez Singh, has opposed the petition and submits that the prosecutrix in her statement under Section 164 Cr.P.C., recorded before the Magistrate stated that she was enticed by Sonu and taken to Abohar, but she managed to flee

from his clutches and went to the railway station, where Gurmeet Kaur (present petitioner) and co-accused, Harjeet Singh took her to their house and kept her there. He submits that the prosecutrix has further stated that Harjeet Singh committed penetrative sexual assault upon her and impregnated her. State counsel submits that MLR of the prosecutrix was conducted and DNA report has been received which is inconclusive. As per his instructions, 04 out of 22 prosecution witnesses have been examined.

Having heard counsel for the parties, considering the fact that the petitioner is a middle aged lady, who has not been accused of sexual assault and has been in custody for the last more than 15 months, this Court is *prima facie* of the view that her culpability in the offence would remain controvertible before the Trial Court. This Court is of the opinion that she would be entitled to be released on bail as there is a little possibility of an early conclusion of the trial.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, 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.

July 29, 2022

savita

(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes