

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(208)

CRM-M-12827-2022 (O&M)
Date of decision:- 05.08.2022

Deepak Singh @ Deepak @ Rinku and another

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. S.K.Choudhary, Advocate for the petitioners.

Mr. Prabhjot Singh Walia, AAG, Punjab for State-respondent.

SUVIR SEHGAL, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”) seeking grant of post-arrest bail in case FIR No.108 dated 16.08.2020, registered for offences under Sections 363, 376 and 376-D of the Indian Penal Code, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012, at Police Station Taragarh, Pathankot, Annexure P-1.

Version of the prosecution is that FIR, Annexure P-1, has been registered on the statement of the father of a 15 year old girl (for short “the prosecutrix”) on the allegation that his daughter, who is deaf and dumb, went missing from her home and could not be located despite extensive search. At about 08:45 P.M., he saw that Sandeep Saini, who was riding a motorcycle, pushed his daughter down from the vehicle and he sped away, when he spotted the complainant. Upon enquiry, the prosecutrix narrated the ordeal that she had gone through to the complainant.

Counsel for the petitioners has urged that the petitioners have not been

named nor any allegation has been levelled against them in the FIR, Annexure P-1. By referring to the testimony of the complainant, prosecutrix (which has been recorded with the assistance of experts) and her mother, Annexures P-2 to P-4, respectively, counsel urges that all the three material prosecution witnesses have turned hostile. He asserts that the petitioners, who are in custody since 24.08.2020, deserve to be enlarged on bail.

Per contra, State counsel, upon instructions from ASI, Balbir Singh, has opposed the petition and has submitted that in her statement recorded under Section 164 of the Code, the prosecutrix has named four persons including both the petitioners, who have sexually assaulted her. He submits that the DNA report has been received, but it is inconclusive. As per his instructions, out of the twenty six witnesses, prosecution has examined three of them.

Having considered the submissions made by counsel for the parties, this Court is prima facie of the view that the culpability of the petitioners in the crime would remain a matter to be debated before the Trial Court. The petitioners, who are in custody for the last almost two years, deserve to be released on bail as material witnesses have been examined and the prosecution is yet to examine twenty three more witnesses.

Petition is allowed.

Without adverting to the arguments addressed by counsel for the parties, petitioners are ordered to be released on bail during the pendency of trial on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

05.08.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No