

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 206

CRM-M-14535-2021

Date of decision : 30.05.2022

Nishan Singh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Amit Arora, Advocate, for the petitioner.

Ms.Gunkirat Kaur, AAG, Punjab.

Mr.G.S.Bal, Senior Advocate, with
Mr.Sewa Singh, Advocate, for the complainant.

DEEPAK SIBAL, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.146 dated 16.08.2019 registered under Sections 363, 366-A, 120-B IPC (Sections 376, 406, 201 IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 added later on) at Police Station Goindwal Sahib, District Tarn Taran.

The petitioner is being prosecuted for having kidnapped and raped a minor girl.

Learned counsel for the petitioner contends that the petitioner, who is a 22 year old boy with no criminal antecedents, has been falsely implicated in this case at the behest of the complainant as the petitioner and the complainant's daughter were having an affair which was not consented to by the complainant; the petitioner is in custody since 24.12.2020; all the material witnesses in the petitioner's trial have since been examined; the case of the prosecution is ex-facie false as after the registration of the FIR in question the prosecutrix had filed a writ petition before this Court being CWP-22401-2019 through which she had prayed for protection of her life and liberty which she felt threatened at the hands of the complainant as he was pressurizing her to marry against her wishes; had the petitioner forcibly enticed away the prosecutrix and then raped her, she would have disclosed such fact in the writ petition filed by her;

while considering the prosecutrix's writ petition the Hon'ble Judge who was hearing the matter had met the prosecutrix in his chamber and had the petitioner being involved in the crime he is accused of, the prosecutrix would have certainly disclosed the same to the Hon'ble Judge during such meeting; after disposal of her writ petition the prosecutrix, being a minor, went to her parents' house and apparently under pressure from them gave a statement implicating the petitioner; the prosecutrix later committed suicide which clearly shows that she was not happily living with the complainant and that in the light of the afore submissions further incarceration of the petitioner is wholly unnecessary.

Learned senior counsel appearing for the complainant opposes grant of bail to the petitioner on the ground that the prosecutrix had specifically blamed the petitioner for having kidnapped and then raped her as also that in a suicide note left behind by the prosecutrix she had blamed the petitioner for the same.

Learned State counsel also opposes grant of bail to the petitioner but candidly admits that no suicide note was left behind by the prosecutrix.

The effect of filing of the writ petition by the prosecutrix in which she has not even raised a little finger against the petitioner shall be debated during the course of the petitioner's trial. Nonetheless the petitioner is a 22 year old boy; he is in custody for the last 1½ years; there is no other criminal case pending against him; all the material witnesses in his trial have since been examined; as per the State the prosecutrix did not leave any suicide note implicating the petitioner and that since 22 prosecution witnesses still remain to be examined in the petitioner's trial, the same is likely to take a long time to conclude.

In view of the above discussion, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Tarn Taran the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the

limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

30.05.2022
shamsher

[DEEPAK SIBAL]
JUDGE

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