

**CRM-M-14294 of 2022 and
CRM-M-25612-2022**

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

213+102

**CRM-M No.14294 of 2022
Date of decision:06.07.2022**

Sukha Singh @ Sukhwinder Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CRM-M No.25612 of 2022

Ninder Kaur @ Ninderpal Kaur

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. K.S. Brar, Advocate
for the petitioner (in CRM-M-14294-2022).

Mr. K.S. Brar, Advocate for
Mr. Atul Goyal, Advocate
for the petitioner (in CRM-M-25612-2022).

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL J.(ORAL)

CRM-18315-2022 in CRM-M-14294-2022

Allowed as prayed for.

Order dated 08.04.2022 passed by this Court in CRM-M-14383-2022, whereby co-accused, Rimpay @ Kulwinder Kaur, has been ordered to be released on bail, is permitted to be placed on record.

Main Case

This order shall dispose of CRM-M-14294-2022 titled as **Sukha Singh @ Sukhwinder Singh versus State of Punjab** and CRM-M-25612-2022 titled as **Ninder Kaur @ Ninderpal Kaur versus State of Punjab** as both the petitioners are accused in the same case i.e. FIR No.157 dated 15.07.2020 registered under Sections 376, 342, 120-B of IPC, however offence under Sections 370, 370-A, 363, 366, 376-D of IPC were added later on, at Police Station Sadar Sri Mukhtsar Sahib, District Sri Muktsar Sahib, Annexure P-1, and have approached this Court by way of separate petitions seeking grant of regular bail under Section 439 of Cr.P.C. For the sake of convenience, facts are being taken from CRM-M-14294-2022.

Version of the prosecution is that FIR, Annexure P-1, has been lodged on the statement of a 30 year old married lady (for short “the prosecutrix”) on the allegation that Sukha Singh (petitioner in CRM-M-14294-2022) and his wife-Rimpy, who are co-villagers used to frequently visit her house. On some pretext, they took her to a residential house in Sri Muktsar Sahib, where Sukha sexually assaulted her. Sukha again sexually exploited her in Malout. After that the accused alongwith Ninder Kaur (petitioner in CRM-M-25612-2022) brought her to village Badal and left at the house of Sukhdev Singh @ Sebi. She came to know that she has been sold to Sukhdev Singh for Rs.30,000/-. After about 03-04 months, she managed to escape and reached her maternal village, where she disclosed the entire mishappenings to her husband.

Counsel for the petitioner(s) has contended that although the prosecutrix has supported the allegations levelled in the FIR in her

statement recorded under Section 164 of Cr.P.C., but during her testimony, Annexure P-4, she has been declared hostile. Reference has also been made by counsel to the testimony of her husband, Annexure P-5. Counsel submits that besides the statement of the prosecutrix, the prosecution does not possess any other incriminating material against the petitioners, who are languishing behind bars since 10.08.2020 and they deserve to be enlarged on bail. Counsel submits that co-accused, Sukhdev Singh @ Sebi and Rimpay @ Kulwinder Kaur, have been enlarged on regular bail by this Court.

Per contra, learned State counsel upon instructions from ASI Amarjit Singh, has opposed the petitions and has submitted that the allegations levelled against the petitioners are serious as not only the prosecutrix has been sexually exploited by the petitioners, but they have also indulged in trafficking. He, however, could not dispute the fact that both the crucial prosecution witnesses have not supported the allegations. Reference has been made by the State counsel to the MLR of the prosecutrix to submit that she has given a detailed narration of the incidents. As per his instructions, 03 out of 22 prosecution witnesses have been examined.

Having heard counsel for the parties, this Court is *prima facie* of the view that the complicity of the petitioners in the crime, would be a subject matter of debate before the trial court and the petitioners, who are in incarceration for the last 01 year and 11 months, would be entitled to be released on bail as material prosecution witnesses including the prosecutrix, have been examined.

Without advertng to the merits or de-merits of the arguments addressed by counsel for the parties, petitions are allowed. Both the petitioners are 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.

06.07.2022
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(SUVIR SEHGAL)
JUDGE

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