

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

227

CRM-M-15285-2022

Date of Decision:07.12.2022

GAGANDEEP SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Manvinder Sidhu, Advocate for the petitioner.

Mr. Ferry Sofat, Addl. A.G., Punjab.

SUVIR SEHGAL, J.

Vide present petition filed under Section 439 of Cr.P.C., petitioner seeks grant of post arrest bail in FIR No.035, dated 23.05.2020 lodged for offences under Sections 376 and 506 of IPC, 1860, and Section 06 of the Protection of Children from Sexual Offences Act, 2012, (for short “POCSO Act”), wherein Sections 376 (2) (f), 376 (2) (n), Section 376 (2) (i) and Section 04 of POCSO Act, were added later on, at Police Station Bariwala, District Sri Muktsar Sahib.

Version of the prosecution is that FIR has been registered on the statement of a school going girl (hereinafter referred to as “the minor prosecutrix”) on the allegation that her mother had left her father, who was an alcoholic, about 10-12 years ago and her mother has been staying with Gagandeep Singh, present petitioner, for the last about two years in live in relationship. Since the last 06-07 months, Gagandeep Singh has been raping her after every 02-03 days. In the night at about 08.30 pm, he took her to a

field adjoining their house, where he raped her and threatened her with dire consequences in case, she reveals the incident to anyone. She could not suffer the agony and made a call at help-line number 112.

Counsel for the petitioner has contended that the petitioner, who is taking care of the minor prosecutrix and her mother, has been falsely implicated as the minor prosecutrix is not happy with the relationship of the petitioner with her mother. He has urged that the minor prosecutrix has been examined and her entire case has been demolished in her cross-examination. He has sought release of the petitioner as according to the counsel, he is no longer required and is in detention since 26.05.2020.

Opposing the petition, learned State counsel upon instructions from ASI Karamjit, has argued that there are specific allegations against the petitioner and the minor prosecutrix, who is 15 years of age, has supported her version in her statement under Section 164 of Cr.P.C. as well as in her examination-in-chief. Reference has also been made by him to the report received from the Forensic Science Laboratory, Punjab.

I have considered the submissions made by counsel for the parties.

Petitioner is in relationship with the mother of the minor prosecutrix and he has taken undue advantage of the relationship by sexually exploiting her. There are categorical allegations against him of sexual assault, which have been duly supported by the minor prosecutrix. DNA report has been received and the conclusion arrived at, is as under:-

“Conclusion

From the observations, it is concluded that:

*a. Human semen/male DNA **detected** on Condom*

*stated to be recovered from scene of crime (Source: Exhibit D) **belongs** to Mr. Gagandeep Singh (Source: Exhibit C -1).*

*b. The female DNA present on Vaginal Swabs (Source Exhibits A-1, A-2) **belongs** to Ms. xxx (Source: Exhibit B-1).*

*c. Human semen was **not detected** on Vaginal Swabs stated to be of Ms. xxx (Source: Exhibits A-1, A-2).”*

Keeping in view the totality of the facts and circumstances, the accusation against the petitioner, gravity of offence allegedly committed by him, which stands corroborated from the medical evidence, this Court is not inclined to release the petitioner on bail during the pendency of the trial.

Finding no merit in the petition, it is hereby dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

07.12.2022
sheetal

(SUVIR SEHGAL)
JUDGE

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