

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

206+111

CRM-M-15424-2022 (O & M)
Date of decision:16.12.2022

Kuldeep Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rajat Malhotra, Advocate for the petitioner.

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

SUVIR SEHGAL J. (ORAL)

CRM-45881-2022

Application is allowed.

Leave is granted.

CRM-45883-2022

Application is allowed as prayed for.

Statement of prosecutrix (PW-1) is taken on record as
Annexure P-4.

Main Case

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.14, dated 02.03.2013 registered for the offences under Sections 363, 366-A, 376 and 120-B of IPC, 1860, however, Sections 04 of the Protection of Children from Sexual Offences Act, 2012, and Sections 04, 05, 06 of Immoral Traffic (Prevention) Act, 1956, were added later on, at Police

Station Phase 11, Mohali, Annexure P-1.

Counsel for the petitioner submits that FIR, Annexure P-1, has been registered on the complaint of mother-in-law of the petitioner, Sukhwinder Kaur, stating that her elder daughter was married to Kuldeep Singh (present petitioner), who has been described as Kuljeet Singh in the body of the complaint, alleging that he in connivance with elder daughter of complainant, Dr. Daljeet Singh and Raj Kaur, abducted her younger daughter and sexually assaulted her. Counsel submits that although the petitioner is named in the FIR as well as in the statement under Section 164 of Cr.P.C., but prosecutrix (PW-1), whose testimony is appended as Annexure P-4, has deposed that her statement under Section 164 of Cr.P.C. was involuntary and she has refused to identify the petitioner. Counsel has also invited the attention of the Court to judgment dated 26.02.2014, Annexure P-2, passed by the trial court, whereby co-accused, Dr. Daljit Singh has been acquitted. Counsel submits that judgment has attained finality. Counsel asserts that the petitioner, who is in custody since 15.06.2021, deserves to be enlarged on bail.

Per Contra, learned State counsel, upon instructions from ASI Jaspal Singh, has opposed the petition and has submitted that there are specific allegations against the petitioner. He submits that co-accused, Raj Preet Kaur @ Raj has been convicted by the trial court vide judgment dated 26.08.2014 for offence under Immoral Traffic (Prevention) Act, 1956. As per his instructions, 02 out of 16 prosecution witnesses have been examined.

Having considered the submissions made by counsel for the parties, this Court is *prima facie* of the view that the complicity of the petitioner in the offence would remain debatable before the trial court and the petitioner, who is in detention for the last more than 18 months, would be entitled to be released on bail as the prosecutrix, who is the main prosecution witness has been examined and trial is likely to take time to conclude.

Without adverting to the merits or de-merits of the arguments addressed, petition is allowed. Petitioner is ordered to be enlarged 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.

16.12.2022

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(SUVIR SEHGAL)
JUDGE

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