

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

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CRM-M-18226-2022

Date of decision: 09.05.2022

Harinder Singh @ Binder @ Harvinder SinghPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Mohd. Yousaf, Advocate
for the petitioner.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This is the second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.40 dated 28.04.2021 lodged under Sections 376(2)(N), 376-D and 506 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (offence under Sections 363, 366 and 366-A IPC charged lateron) registered at Police Station Bhadson, District Patiala.

Learned counsel for the petitioner submits that subsequent to the withdrawal of the previous petition on 07.01.2022 main accused Sukhwinder Singh @ Gaggi has been extended the concession of bail by this Court vide order dated 19.04.2022 (Annexure P-7). Learned counsel submits that a highly improbable story has been brought-froth by the mother of the victim, aged 17 years, that for a year prior to the registration of the FIR in question, the victim had been living with co-accused Sukhwinder Singh in his house and he had been sexually exploiting and assaulting her after putting her under threat. Learned counsel submits that neither was the petitioner named in the FIR in

question nor any specific role attributed to him much less of subjecting the victim to sexual assault. He submits that it was only after the main accused Sukhwinder Singh was arrested, on his statement before the police, the petitioner was nominated as an accused in the case in hand and a role attributed to him of establishing sexual relations with the victim which was not even medically corroborated as the victim refused to get herself medically examined. Learned counsel further submits that the petitioner has now been in custody since 02.05.2021 and as many as 08 prosecution witnesses remain to be examined, hence, there is no likelihood of the trial concluding in the near future.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Parmender Singh, has not been able to controvert the factum of the petitioner not being named in the FIR in question and his name and role in the crime in question cropping up only during the investigation of co-accused Sukhwinder Singh. He, however, submits that the victim as well as her mother i.e. the complainant while stepping into the witness box supported the case of the prosecution. Learned State counsel has conceded that the victim refused to get herself medically examined.

I have heard learned counsel for the parties and perused the material placed on record.

In the facts and circumstances as enumerated hereinabove coupled with the fact that admittedly the main accused Sukhwinder Singh, who had been allegedly subjecting the victim to continuous sexual assault, had been extended the concession of bail, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction

of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

09.05.2022
Vinay

(MANJARI NEHRU KAUL)
JUDGE

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