

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

CRM-M-19856-2022

Date of decision : 16.05.2022

Manjit Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr. Ram Kumar Saini, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Instant petition has been filed under Section 439 Cr.P.C. praying for grant of regular bail to the petitioner in case FIR No.298, dated 7.9.2020, under Sections 376, 120B IPC and Section 6 of the POCSO Act, 2012, registered at Police Station Goindwal Sahib, District Tarn Taran.

As per the factual matrix of the case, Jagdev Singh son of Jarnail Singh has lodged the FIR. The sum and substance of the allegations in the FIR that they are three brothers and elder brother Sukhwinder Singh died. His wife Kulwant Kaur along with her daughter victim (name concealed) started residing in the house of her sister-in-law Gurmeet Kaur.

On 6.9.2020, when she was present in the house, his niece/victim, who is 15 years and 6 months of age, came to him and told that her mother Kulwant Kaur had illicit relations with petitioner-Manjit

Singh son of Sukhdev Singh. It was also told that petitioner had also illicit relations with the victim. She told this fact to her mother but she did not say anything regarding this. It was told by her that petitioner forcefully made illicit relations with her. Whenever, she complains of the same to her mother, no action is taken. The complainant along with his wife Sarabjit Kaur and his niece went to Police Station and lodged the FIR for taking action against the petitioner.

On completion of investigation, the statement of victim under Section 164 Cr.P.C. was recorded and she was examined medically. Accused Kulwant Kaur i.e. the mother of the victim was arrested on 8.9.2020. The petitioner who is cousin of the victim was also arrested. The petitioner approached the Court of Additional Sessions Judge, Tarn Taran, praying for the grant of bail. After hearing the parties, the Additional Sessions Judge, Tarn Taran declined the bail vide order dated 16.04.2022. Aggrieved by the same, the petitioner approached this Court by way of present petition.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case. He submits that the petitioner is none other than the cousin of the victim. He submits that the FIR was lodged to usurp the share of the petitioner in his property. He submits that the petitioner being cousin of victim can never be said to have committed the offence as alleged. The petitioner has never been involved in any criminal case at any point of time. To buttress his arguments, he submits that after the presentation of the challan and framing of the charges, learned trial Court has commenced with the recording of evidence. Complainant

Jagdev Singh has been examined as PW-1 and the victim has been examined as PW-2. Their statements have been placed on record. It is submitted by counsel for the petitioner that both these material witnesses have not supported the case of the prosecution and hence, both were declared hostile on the request of learned Public Prosecutor. In view of the facts and circumstances of the case, as the material witnesses have themselves not supported the case of the prosecution, the petitioner deserves to be enlarged on bail.

Learned State counsel has opposed the submissions made by counsel for the petitioner. She submits that the victim is 16 years of age and there are specific allegations against the petitioner. She submits that while conducting the medical, FSL report also corroborated the prosecution version. However, she acknowledges that the victim and the complainant have not supported the case of the prosecution. She submits that in all there are 16 prosecution witnesses, out of which 3 material witnesses i.e. The victim, the complainant and the wife of the complainant have already been examined. She also submits that there are no criminal antecedents of the petitioner except this case.

Heard.

The petitioner is the cousin of the victim. He is behind bars since 8.9.2020. The material witnesses have not supported the case of the prosecution. There is nothing on record showing any criminal antecedents of the petitioner. The veracity of allegations would be evaluated by the trial Court only after the conclusion of the trial. However, this Court would refrain itself from commenting on the merits of the case. In the overall facts and circumstances, this Court finds that

the material witnesses have not supported the case of the prosecution and granting bail to the petitioner, at this stage, cannot even result in tampering with the prosecution evidence. Co-accused who was mother of the victim has already been released on bail on 29.04.2022. In the overall facts and circumstances, this Court finds that the counsel for the petitioner succeeds in making out the case for grant of regular bail to the petitioner.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

(RAJESH BHARDWAJ)
JUDGE

16.05.2022

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Whether speaking/reasoned Yes/No
Whether Reportable Yes/No