

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

223(2)

1. CRM-M-21195 of 2022 (O&M)
Date of decision:30.08.2022

Amritpal Singh

... Petitioner

Vs.

State of Punjab

... Respondent

2. CRM-M-4988 of 2022

Gursewak Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Manjit Singh Uppal, Advocate
for the petitioner in both cases.

Mr. Mohit Chaudhary, AAG, Punjab.

Mr. Inderjeet Singh Brar, Advocate
for the complainant in both cases.

SUVIR SEHGAL, J. (Oral)

CRM No.23469 of 2022 in CRM-M-21195 of 2022

Application is allowed as prayed for.

CRM No.23471 of 2022 in CRM-M-21195 of 2022

Application is allowed as prayed for.

Testimonies of the prosecutrix and that of the complainant are

taken on record as Annexures P-8 and P-9, respectively.

Sequence of pages of testimony of the complainant, Annexure P-9, be corrected.

CRM-M-21195 of 2022 and CRM-M-4988 of 2022

This order will dispose of two petitions bearing CRM-M-21195 of 2022 titled as 'Amritpal Singh Vs. State of Punjab', and CRM-M-4988 of 2022 titled as 'Gursewak Singh Vs. State of Punjab'.

Both the petitioners, namely, Amritpal Singh and Gursewak Singh are accused in FIR No.112 dated 28.06.2021 registered under Sections 363, 366-A, 376, 506, 34 of Indian Penal Code, 1860 and Sections 3, 4 of Protection of Children from Sexual Offences Act, 2012 (for short “the POCSO Act”), however, Sections 376, 506, 34 IPC and Sections 3, 4 of the POCSO Act were added later on, at Police Station Sardulgarh, District Mansa and have approached this Court by way of separate petitions seeking grant of regular bail filed under Section 439 Cr.P.C. For the sake of convenience, facts are being taken from CRM-M-21195 of 2022.

Criminal law has been set in motion on the basis of complaint given by father of a 13 year old school going girl (for short “the prosecutrix”) on the allegation that she is missing from her home since early morning hours. The complainant suspects that Lovepreet Singh alias Labhi has enticed her on the pretext of marriage.

Counsel for the petitioner(s) submits that the prosecutrix was recovered from Gurudawara Sahib, Talwandi Sabo and in her statement recorded under Section 164 Cr.P.C., on 02.07.2021, (Annexure P-7), she has

stated that Lovepreet Singh called her at midnight, took her to open fields and forcibly developed physical relations with her despite her resistance. They spent the entire day together. Gursewak Singh, petitioner in CRM-M-4988 of 2022 and Amritpal Singh, petitioner in CRM-M-21195 of 2022, who are brothers, came searching for them and took them to a lawyer at Chandigarh where she was forced to sign on some papers which were to be filed in Court. Thereafter, they were taken to the residence of a maternal aunt where they stayed for 2-3 days and a relative brought her back on 01.07.2021 where she was recovered by the police. Counsel contends that neither in the statement recorded under Section 164 Cr.P.C, nor in her deposition during her examination as PW1, the prosecutrix has levelled any allegation of sexual assault against the petitioner. He submits that besides the prosecutrix, even the complainant has been examined, who has not named the petitioner. Counsel asserts that the petitioners, who have a clean past and are in custody since 28.10.2021, deserve to be enlarged on bail.

Upon instructions from ASI Jugraj Singh, State counsel has opposed the petition. He is assisted by Mr.Inderjeet Singh Brar, counsel for the complainant. Counsel for the State as well as complainant have submitted that the petitioners were hand in glove with main accused, Lovepreet Singh and considering the young age of the prosecutrix, the petitioners do not deserve the concession of regular bail. Upon instructions, State counsel submits that 03 out of total 24 prosecution witnesses have been examined.

Having considered the submissions made by counsel for the parties and keeping in view the fact that both petitioners are not accused of sexually exploiting the prosecutrix, this Court is *prima facie* of the view that petitioners deserve to be released on bail. Still further, the trial is at an initial stage and is not likely to conclude, besides length of custody of the petitioners, are other factors which impel this Court to grant bail to the petitioners.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, petitions are allowed and 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.

August 30, 2022
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes