

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(227)

CRM-M-21408-2022
Date of Decision: 29.11.2022

Harvinder Pal Singh @ Golu

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Balbir Singh, Advocate for the petitioner.

Mr. Karunesh Kaushal, A.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.96 dated 27.8.2018 under sections 363, 376, 376 AB, 511 IPC and Sections 4 and 6 of POCSO Act (section 376 AB IPC and in alternate section 6 of POCSO Act were amended later on by the trial court in place of section 376 IPC and section 4 POCSO Act), registered at Police Station, Koom Kalan, District Ludhiana.

As per facts of the case, present FIR was lodged on the statement of father of the complainant Raman, wherein it was alleged that he was resident of village Bonkar Gujran and was doing labour work. His daughter i.e. victim was two years of age. On 26.8.2018 he along with his wife had gone to his in-laws house at Jiwanpur. In the night when they returned at about 10 PM he found that his daughter was missing. They tried searching for her and he called his brother-in-law Mangat Singh as well. During search they heard the cries of the child from the fields in front of

their house. On reaching there they found Harwinder Pal Singh @ Golu i.e. the present petitioner was sitting with his daughter in his lap and he was doing obscene acts with her. On seeing them he threw away the child and escaped from there. It was alleged that Harwinder Pal Singh @ Golu had kidnapped the victim child with an intention to rape her. A request was made to take legal action against the culprit.

On the basis of the complaint FIR was registered and investigation commenced. The petitioner was arrested on 27.8.2018. The accused/petitioner and victim were medically examined and statements of the witnesses were recorded under section 161 Cr.P.C. Finally the police presented the challan before the court of competent jurisdiction. The petitioner approached the learned Fast Track Special Court, Ludhiana for grant of bail, however, after hearing the parties, the same was declined vide order dated 21.8.2020. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He submits that the families of victim and petitioner are neighbors and they have a long standing rivalry and on account of the same petitioner has been roped in the present case. He submits that from the bare reading of the allegations in the FIR, it is apparent that the petitioner has been alleged to have kidnapped the child with an intention to rape her. He submits that after recovery of the child she was medically examined by Dr. Malwinder Singh and on examination no external marks of injury were found on her body. He further submits that even the FSL report does not corroborate the

ocular version of the complainant. He submits that petitioner is behind bars for the last more than four years and majority of the prosecution witnesses stand examined by the learned Trial Court. Counsel submits that as all the material witnesses stand examined, petitioner is not in a position to influence them. It is also submitted that for the last more than four years prosecution has not been able to conclude the trial and thus in the facts and circumstances of the case petitioner deserves to be granted bail.

On the other hand, learned State counsel on instructions from ASI Ranjit Singh submits that there are specific allegations against the petitioner. He submits that the victim is a two year old child. It is submitted that the father of the victim is the author of the FIR and also an eye witness to the occurrence. It is submitted that complainant had seen the petitioner doing the obscene act with the child and on seeing him the petitioner escaped from the spot. State counsel, however, submits that out of total 17 prosecution witnesses 10 including the complainant and other material witnesses have already been examined by the learned Trial Court. He submits that as per information provided to him petitioner has no criminal antecedents as he is not involved in any other criminal case.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars for the last more than four years. After the recovery of the child she was medically examined and no injury marks were detected on her body by the doctor. In the FSL report it has been mentioned that no spermatozoa was detected in the contents of the samples. There is nothing on record to show that petitioner has any

criminal antecedents. This court cannot be oblivious of the fact that petitioner is behind bars for the last about four years and till date the trial has not been concluded as only 10 prosecution witnesses out of the total 17 have been examined. A speedy trial is right of every accused irrespective of the gravity of the offence in which he is involved. As the material witnesses already stand examined, petitioner is not in a position to influence them. The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to the satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

29.11.2022

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