

212

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

**CRM-M-29330-2021
Date of Decision: 06.05.2022**

Rohit

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Aditya Jain, Advocate and
Mr. Rahul Vohra, Advocate,
for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana.

Mr. Jagjot Singh, Advocate for
Mr. Kunal Dawar, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (ORAL)

This is the third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.298 dated 19.10.2019, under Sections 363 & 366-A of the IPC (Section 420 of the IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 were added later on), registered at Police Station Kheripul, District Faridabad.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 25.10.2019, which is almost 2½ years. He further submitted that in the present case, 4 witnesses have already been

examined out of 27 and the complainant as well as the mother of the prosecutrix have also been examined. He also submitted that it is a case where allegation against the petitioner was that he had enticed away a minor girl aged 17 years and therefore, the present FIR was lodged by the parents of the prosecutrix. He referred to Annexure P-3 which is a statement made under Section 164 of the Cr.P.C. by the prosecutrix that the family members of the petitioner had enticed her because of their old enmity. Learned counsel for the petitioner also referred to Annexure P-4, which was the statement made by the prosecutrix before the Child Welfare Committee, where she stated that she knew the petitioner for the last 4-5 years and in the night, she had left her house with him and then they went to Gaziabad where they stayed for night in Aman Hotel and next day they went to Uttrakhand, where they had taken a room on rent and she had developed physical relation with the petitioner with her consent and that she does not want the petitioner to get punished.

Learned counsel for the petitioner has also submitted that in fact although the prosecutrix was minor at that time but even as per her statement, it was with her consent which otherwise is not significant because of her minority but for the purpose of considering the bail petition these factors whereby she has given a statement, would certainly be material. He further submitted that he had earlier filed two petitions for bail which he had withdrawn but thereafter there is a change of circumstance. He also submitted that the material witnesses have now been examined on 01.04.2022 and therefore, that would constitute a change of circumstance. He further submitted that apart from the same, now the prosecutrix has died

due to snake bite and has prayed that in view of the aforesaid circumstances and considering the long custody of the petitioner, he may be considered for the grant of regular bail.

On the other hand, Mr. Ranvir Singh Arya, learned Deputy Advocate General, Haryana has submitted that it is correct that the petitioner is in custody since 25.10.2019, which is almost 2½ years and the material witnesses including the complainant and the mother of the prosecutrix have been examined. However, he has opposed the grant of bail to the petitioner on the ground that the matter is serious in nature.

Mr. Jagjot Singh, Advocate for Mr. Kunal Dawar, Advocate has caused appearance on behalf of the complainant and has submitted that so far as the examination of the witnesses are concerned, the same is correct that the material witnesses including the complainant and the mother of the prosecutrix have been examined. He further submitted that so far as the death of the prosecutrix is concerned, an untraced report has already been filed by the Police.

I have heard the learned counsel for the parties.

The petitioner is in custody for almost 2½ years. The prosecution witnesses which are material witnesses i.e. complainant and the mother of the prosecutrix have already been examined. The prosecutrix herself has died allegedly due to snake bite. So far as the maintainability of the third petition is concerned, there is a change of circumstance after the withdrawal of the earlier two bail petitions, therefore, present third successive bail petition would be maintainable. Furthermore, it is not the case of the State that in case the petitioner is released on regular bail then he

may abscond or flee from justice or may influence the witness or may tamper with the evidence. Therefore, considering the aforesaid fact that the material witnesses have since been examined and also considering the custody of the petitioner which is almost 2½ years, this Court is of the view that the petitioner is entitled for the grant bail to the petitioner.

Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

06.05.2022*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |