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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31615-2021 (O&M)

Date of Decision: December 06, 2022

Vakeel Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.K.S.Sidhu, Advocate
for the petitioner.

Mr.Karunesh Kaushal, AAG, Punjab.

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RAJESH BHARDWAJ, J.(ORAL)

CRM-46665-2022

For the reasons mentioned in the application, the same is allowed. Annexures P-1 to P-5 are taken on record.

Main case

Instant petition has been filed under Section 439 Cr.P.C. praying for grant of regular bail to the petitioner in case FIR No.30, dated 25.02.2021, under Sections 376(3), 511 IPC, later on added Sections 354, 354-B IPC and Section 8 of POCSO Act, 2012 (Section 4 of POCSO Act deleted later on), registered at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

Adumbrated facts of the case are that complaint was lodged by the prosecutrix, name concealed, wherein it was alleged that she was 13½ years of age at the time of incident, as her date of birth is 03.08.2007. On 25.02.2021, at about 5.00 p.m. her neighbor Vakeel Singh, i.e. the petitioner, came to their house and told that his cows need to be feeded fodder and on

that pretext he took her to his house. After some time, he again came to her house and on the pretext of washing the utensils, he took her to his house. There he bolted the door from inside and started outraging her modesty. He made an attempt to commit rape upon her forcibly. She raised noise and on hearing the same, her younger brother and sister, namely, Tanveer Singh and Khushpreet Kaur, rushed to the spot. On their knocking the door, Vakeel Singh escaped from the spot. She narrated the incident to her parents and on the same day, the complaint was lodged with a request to take legal action against the culprit. On the basis of complaint, formal FIR was lodged and investigation was commenced. Statement of the prosecutrix was recorded under Section 164 Cr.P.C. and that of other witnesses.

The petitioner was arrested on 25.02.2021. He approached the Court of learned Additional Sessions Judge, Sri Muktsar Sahib praying for grant of bail, however, after hearing both the sides, the same was declined vide order dated 26.05.2021. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

It has been contended by counsel for the petitioner that petitioner is the victim of rivalry between him and the family of the prosecutrix. He submits that petitioner had given 15 goats to the grandfather of the prosecutrix on share basis, however, her grand-father sold all the goats and received the money. On asking for his share by the petitioner, the dispute arose and on account of the same, family of the prosecutrix implicated the petitioner by lodging the present FIR. He submits that petitioner is a respectable person, about 50 years of age, who has no criminal antecedents. He submits that probability of the allegations made in the FIR

is totally remote as the alleged occurrence had taken place in the midst of the

village during day time. He submits that only in order to restrain the petitioner from asking his due share, conspiracy was hatched by the family of the prosecutrix and thus he is implicated in the present case. He submits that petitioner is behind bars since 25.02.2021 and the material witnesses already stands examined. He submits that even though the prosecution witnesses have supported the case of the prosecution, releasing the petitioner on bail would have no impact as he would not be in a position to influence the prosecutrix or other material witnesses as they have already stands examined. It is further submitted that petitioner has no criminal antecedents and thus, he deserves to be granted bail.

Learned State counsel, on the other hand, has opposed the submissions made by counsel for the petitioner. He has submitted that prosecutrix is a minor and she has supported the case of prosecution while deposing before the Magistrate in her statement under Section 164 Cr.P.C. as well as while she was examined by the trial Court. He submits, on instructions from ASI Balwant Singh, that out of 21 prosecution witnesses, three including the prosecutrix and her family members have already been examined. He submits that as per instructions received, the petitioner is not involved in any other case.

Heard.

Evidently, petitioner is behind bars since 25.02.2021. Out of 21 prosecution witnesses, three witnesses, i.e., prosecutrix, her brother and sister, already stand examined. There is nothing on record to show that the petitioner has any criminal antecedents. As material witnesses already stand examined, the petitioner is not in a position to influence the material prosecution witnesses. The veracity of the allegations would be assessed

only after conclusion of the trial. However, this Court would refrain itself from commenting anything on merits of the case, at this stage. In the overall facts and circumstances of the case, this Court finds that counsel for the petitioner succeeds in making out a case for grant of bail to the petitioner.

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 of opinion on the merits of the case.

December 06, 2022
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(**RAJESH BHARDWAJ**)
JUDGE

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