

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

CRM-M-27062-2020 (O&M)

Date of decision : 03.02.2022

Sahil @ Saili

.... Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

Ms. Sakshi Bakshi, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.91 dated 30.04.2020, under Sections 376, 506 IPC read with Section 4 of POCSO Act, registered at Police Station Sadar, Pathankot, District Pathankot.

As per factual matrix of the case, the present FIR was lodged by the victim (name concealed). It was alleged that she is 16 years of age and resident of Village Dehriwal, Police Station Sadar Pathankot and doing household work and studying in Government High School and has passed 9th standard. Her date of birth was 10.01.2004. It was alleged that the boy of her village whose name is Sahil @ Saili i.e. the petitioner used to come to

her elder brother Harish Chander for repair of his mobile phone. He used to pass objectionable gestures towards her. However, she used to ignore the same and on 29th April, 2020, when her family was out in the field at about 12 o'clock, Sahil @ Saili came to her home and finding her alone, he caught hold her though, she tried to make a noise, however, he put his hand in her mouth and removed her clothes. He forcibly without her consent committed rape upon her. In the meantime, her elder brother Harish Chander came, however, the accused Sahil @ Saili hide himself in the box and she ran to open the door. Her brother Harish Chander tried to catch hold of him, however, he managed to escape. The statement was recorded before the police and the request was made to take the legal action against the culprit. On commencement of the investigation, petitioner was arrested on 01.05.2020. He approached the learned Additional Sessions Judge, Pathankot for grant of bail, who after hearing counsel for the parties, declined the same vide his order dated 3rd July, 2020. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition.

It has been vehemently contended by counsel for the petitioner that petitioner is a teenager and has been falsely implicated in the present FIR. He submits that the victim and the petitioner both were in love affair. However, their relationship was not acceptable to the family members of complainant and hence, he was falsely implicated in this case. He has also contended that the family members of complainant and the victim had also settled the dispute and agreed to marry both i.e. the petitioner and the victim. However, subsequently, they backed out from the same and pursued

the present FIR for the reason best known to them. He submits that the petitioner is at the threshold of his life and is behind the bars since last about two years. He contends that even otherwise, virtually all the material witnesses have been examined by the prosecution and hence, there cannot be any threat of tampering with the ongoing trial, in case the petitioner is enlarged on bail. He submits that in view of the facts and circumstances of the case, the petitioner deserves to be enlarged on bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner. She submits that the victim is 16 years of age and being minor, her consent has no legal sanctity in the eyes of law. She has submitted that during investigation, the DNA sample was sent to the lab and the same has matched with the sample of the petitioner and thus, the ocular version also medically corroborated. However, she submits that in all, there are 20 prosecution witnesses, out of which, 13 prosecution witnesses have been examined including the complainant and the victim. She submits that the material witnesses have duly supported the case of the prosecution.

I have heard learned counsel for the parties and perused the records.

Petitioner is behind the bars since 01.05.2020. The custody certificate placed on record would show that the petitioner is behind the bars from the last 1 year, 9 months and 7 days. As per the submissions made by counsel, material witnesses already stand examined. The veracity of the allegations would be evaluated on the conclusion of the evidence by the trial Court. In the overall facts and circumstances of the case, it is apparent that

the trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time. Keeping in view the abovesaid facts, this Court finds that learned counsel for the petitioner has succeeded in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(**RAJESH BHARDWAJ**)
JUDGE

03.02.2022
m. sharma

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