

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 213

CRM-M-32797-2021

Date of decision : 19.04.2022

Sukhwinder Singh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.R.S.Sohi, Advocate, for the petitioner.

Ms.Gunkirat Kaur, AAG, Punjab.

DEEPAK SIBAL, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.40 dated 28.04.2021 registered under Sections 376 (2)(n), 506 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (Section 376D IPC added later on) at Police Station Bhadson, District Patiala.

Briefly stated, the case of the prosecution is that the petitioner and his co-accused illegally confined the prosecutrix for over one year and during such confinement repeatedly raped her.

Seeking regular bail for the petitioner, learned counsel submits that the petitioner, who is a young boy aged 24 years, has been falsely implicated in the present case; he does not face any other criminal case; he is in custody since 28.04.2021; all the material witnesses including the prosecutrix has been examined before the Trial Court and therefore the petitioner is in no position to influence the trial; the prosecution's case is apparently false as the prosecutrix while appearing before the Trial Court as a witness for the prosecution has admitted that for over one year she was held captive by the petitioner in a locality which was heavily populated, but she never screamed or raised an alarm; during the period of her alleged captivity she was taken to a doctor before whom she did not disclose

anything regarding her captivity/rape; she further admitted that for the entire period of her confinement she was in possession of a mobile phone from which she never called the police or her parents/relatives; there is no medical evidence to support the case of the prosecution and such medical evidence did not come on record as the prosecutrix refused to be medically examined; in the initial statement the prosecutrix did not name co-accused Harvinder @ Binder Singh showing falsity in her claim and that since 11 prosecution witnesses still remain to be examined, the petitioner's trial shall take a long time to conclude.

Learned State counsel opposes the grant of bail to the petitioner on the ground that the petitioner is accused of kidnapping and raping a minor girl and if released on bail he may influence the trial.

After considering the afore rival contentions of both sides especially that the petitioner is in custody for the last nearly one year; all the material witnesses including the prosecutrix have since been examined; there is no medical evidence to support the prosecution's case; the petitioner faces no other criminal case and that 11 prosecution witnesses still remain to be examined, the petitioner's trial is likely to take a long time to conclude.

In view of the above, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Patiala the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

19.04.2022
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No