

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(223)

CRM-M-30667-2022
Date of Decision: 07.12.2022

Sukhpreet Singh @ Sukha

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Rahul Rampal, 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.19 dated 20.3.2022 under section 354 I.P.C and section 8 of POCSO Act, registered at Police Station, Hathur, District Ludhiana.

As per factual matrix, a complaint was lodged by the mother of the prosecutrix, wherein it was alleged that she had two children elder one is daughter aged 12 years i.e. the victim and younger to her is the son aged 9 years. On 19.3.2022 after completing the work she went out and her daughter was alone at home. When she returned at 3 PM her daughter disclosed that Sukhpreet Singh @ Sukha i.e. the present petitioner entered their home and tried to commit rape with her daughter. He kissed her on the face and neck and when she raised alarm he escaped from the spot. A request was made to take legal action against the culprit.

On the basis of the complaint, present FIR was lodged and investigation commenced. Petitioner was arrested on 21.3.2022. He

approached learned Addl. Sessions Judge, Fast Track Special Court, Ludhiana for grant of bail, however, after hearing the parties, the same was declined vide order dated 17.5.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case. He submits that petitioner is a young boy of 19 years of age, who has no criminal antecedents. It is submitted that from the facts and circumstances of the case, it is apparent that the petitioner and the prosecutrix were in consensual relationship, however, the prosecutrix being minor the petitioner has been falsely implicated by the family members of the prosecutrix. He submits that statement of the prosecutrix was recorded under Section 161 Cr.P.C, wherein she deposed that the petitioner did not try to commit excess (Jabardasti) with her. It is submitted that there are material contradictions in the statement made by the complainant while registering the FIR and in her statement recorded under section 161 Cr.P.C. It is further submitted that the learned Trial Court has declined the bail of the petitioner on the ground that he threatened to make her obscene videos and photographs viral on social media, however, during investigation no such material was found and because of the same petitioner has not been prosecuted under the I.T. Act. Counsel submits that the maximum punishment under section 8 of POCSO Act is 3 years and the petitioner has already suffered incarceration of more than 8 months. It is submitted that in the overall facts and circumstances of the case, petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel has opposed the submissions made by counsel for the petitioner and has submitted that there are specific allegations against the petitioner. He submits that prosecutrix in the present case was 12 years of age at the time of occurrence. He further submits that prosecutrix has supported the case of prosecution while recording her statement under section 164 Cr.P.C. It is also submitted that there is no material contradiction as contended by learned counsel for the petitioner. He submits that investigation in the case is complete and charges have already been framed and the case is fixed for recording prosecution evidence before the learned Trial Court. It is submitted that petitioner has no criminal antecedents.

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

Admittedly, the prosecutrix is minor and petitioner is about 19 years of age. The investigation in the case is complete and charges have been framed. There is nothing on record to show that petitioner has criminal antecedents.

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 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 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

07.12.2022

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