

CRM-M-36895-2021

Date of Decision:20.04.2022

JUDGE ALIAS JAJJ SINGH

... Petitioner

v/s

STATE OF PUNJAB

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Lokesh Vohra, Advocate for
Mr. Kamal Narula, Advocate for the petitioner.

Ms. Ruchika Sabherwal, AAG Punjab.

* * *

VIVEK PURI, J. (ORAL)

Custody certificate has been taken on record.

The petitioner is seeking regular bail in case bearing FIR No. 33 dated 22.04.2021 under Sections 376/506 IPC, registered at Police Station Mamdot, District Ferozepur.

Briefly, the FIR has been registered on the basis of the statement of the prosecutrix, aged about 21 years, alleging that the petitioner was on visiting terms to her house and had been representing to solemnize marriage with her. On 25.03.2021 he called the prosecutrix near the water pond of the village and committed rape upon her. The prosecutrix returned back and under threat she never disclosed the incident to anyone. On 22.04.2021, she disclosed the incident to her aunt. The matter was negotiated with the family members of the petitioner. Subsequently, the FIR was registered.

Learned counsel for the petitioner contends that the statement of the prosecutrix has been recorded during the course of trial. The prosecutrix was having an affair with the petitioner and she was a consenting

party. The petitioner is in custody for a period of 10½ months and FIR has been lodged after a substantial delay of one month.

The bail application has been resisted on the score that the prosecutrix has supported the version of the prosecution during the course of trial. The report of chemical examiner is still awaited.

There is a delay of about one month in lodging the FIR. The petitioner is in custody for a period of 10½ months. Though he is involved in another case under NDPS Act but is stated to be on bail. Furthermore, it will be a debatable and moot point during the course of trial as to whether the prosecutrix was consenting party or not. Out of 15, 6 witnesses including the prosecutrix have already been examined. Consequently, it cannot be construed that the petitioner could in any manner influence or win over the prosecutrix. The conclusion of trial is likely to take some more time and no fruitful purpose would be served by detaining the petitioner in further custody.

Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

20.04.2022

Janki

(VIVEK PURI)
JUDGE

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