

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(214)

CRM-M-33335-2022
Date of decision:- 05.08.2022

Amandeep Singh @ Mana

... Petitioner

Versus

The State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. J.S.Jaidka, Advocate for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab for State-respondent.

SUVIR SEHGAL, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”) seeking grant of post-arrest bail in case FIR No.88 dated 29.08.2019, registered for offences under Sections 376, 372 and 120-B of the Indian Penal Code, 1860 and Sections 3 and 4 of Protection of Children from Sexual Offences Act, 2012, however, later on Section 67 of Information Technology Act, 2002 was added, at Police Station Hathur, District Ludhiana, Annexure P-1.

Version of the prosecution is that FIR, Annexure P-1, has been registered on the statement of elder brother of the prosecutrix, whose date of birth is 23.07.2002. He has alleged that Raja Singh, who is a relative, had taken the prosecutrix to his home and in connivance with his wife-Sarabjit Kaur, sexually assaulted her. Amandeep Singh @ Mana, present petitioner, who was on visiting terms with Raja Singh, also sexually exploited the prosecutrix. After about a month when the prosecutrix came back to her

brother's village, she used to stay in a frightened state. Amandeep Singh @ Mana started sending obscene messages to her and blackmailing her and forcing her to meet him. Thereupon, the prosecutrix confided in the complainant.

Counsel for the petitioner submits that although the petitioner has been named in the FIR as well as in the statement of the prosecutrix recorded under Section 164 of the Code, but in her testimony, Annexure P-2, recorded before the Trial Court on 25.03.2022 after she had attained the age of majority, she has not supported the allegations. Reference has also been made by the counsel for the petitioner to the statement of the complainant, who has also been declared as hostile. Counsel asserts that the petitioner, who is in custody since 02.09.2019, deserve to be released on bail as he has a clean past.

Per contra, State counsel, upon instructions from ASI, Sulakhan Singh, has opposed the petition and has submitted that the nature of the allegations levelled against the petitioner are serious and grave. He submits that besides the statement before the Magistrate, the medical of the prosecutrix shows that she has been subjected to sexual assault. As per his instructions, four out of fifteen prosecution witnesses stand examined.

Having considered the submissions made by counsel for the parties, this Court is prima facie of the view that the culpability of the petitioner in the offence would remain debatable before the Trial Court. The petitioner, who has undergone custody of more than two years and eleven months, would be entitled to be released on bail as the prosecution evidence is likely to take time to conclude.

Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail during the pendency of trial, on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

05.08.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No