

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 209

CRM-M-37637-2021 (O&M)

Date of decision : 02.08.2022

Gurlaljit Singh @ Gora

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Dr.Rau P.S.Girwar, 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.77 dated 04.10.2020 registered under Sections 376, 363, 366-A, 506 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Kotfatta, Bathinda.

The petitioner is being prosecuted for having kidnapped and raped a minor girl.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case; the petitioner is in custody since 13.10.2020; he has no other criminal case pending against him; all material witnesses including the prosecutrix already stand examined before the Trial Court and therefore the petitioner is in no position to influence the trial; as per FSL report no human semen or male DNA has been detected on the samples of the prosecutrix sent for forensic examination; the prosecutrix's date of birth certificate produced by the prosecution has been disputed by one of the witnesses of the prosecution itself-PW-9 Dr. Bija Mal; as per the statement of PW-6 Dr. Preet Maninder the prosecutrix had told her that she had history of sexual intercourse with the petitioner which was with her consent; on examination no injury was detected on the prosecutrix and that in the light of the afore submissions further incarceration of the petitioner is not warranted.

Learned State counsel opposes grant of bail to the petitioner on the ground that the petitioner has kidnapped and raped a minor girl.

The effect of the FSL report wherein no human semen or male DNA has been detected on the samples of the prosecutrix sent for forensic examination; the statement of PW-6 Dr.Preet Maninder who has deposed that the prosecutrix had told her that she had regular sexual intercourse with the petitioner with her consent; no injury mark having been found on the prosecutrix's person and the dispute with regard to the prosecutrix's age shall be debated during the course of the petitioner's trial. However, the petitioner is in custody since 13.10.2020; he does not face any other criminal case and that in the petitioner's trial all material witnesses including the prosecutrix already stand examined.

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, Bathinda, 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.

02.08.2022
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[DEEPAK SIBAL]
JUDGE

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