

**227 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-39955-2021
Date of Decision: 9.2.2022

Lakhvir Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Guninder Singh Brar, Advocate, for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.30 dated 5.6.2021, registered under Sections 376, 511 IPC, at Police Station Lakhewali, District Sri Muktsar Sahib.

As per the factual matrix of the case, the present FIR was lodged by the prosecutrix herself. It was alleged that on 25.5.2021, when her mother Arshdeep Kaur had gone out to do the labour work, her younger sister was also not home, she was alone at home. Finding her alone, Lakhvir Singh son of Bohar Singh i.e. the petitioner came to her house. He forcibly took her to one room and thereafter, tried to commit sex with her. In the meantime, her mother came on the spot and on seeing her he escaped from there. She disclosed whole matter to her mother but due to social stigma initially they did not disclose the same, however, thereafter, the matter was reported and request was made to take legal action against the accused. On

the commencement of the investigation, the petitioner was arrested on 25.7.2021. The petitioner approached the learned Additional Sessions Judge, Sri Muktsar Sahib for grant of bail, who after hearing the parties, declined the same vide its order dated 2.9.2021. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously roped in this case. He has submitted that the petitioner as well as the prosecutrix both are of the age of the majority and the allegations are totally unbelievable. He vehemently contends that the present FIR is nothing but tactics adopted by the complainant for pressurising the petitioner to enter into a compromise in FIR No.92 dated 31.5.2021 under Sections 306, 506, 149 IPC. He has submitted that before this occurrence, father of the petitioner had committed suicide in which accused Harcharan Singh, Numberdar and others were nominated. The prosecutrix having relations with said accused, lodged the present FIR at the behest of all the accused in FIR No.92 dated 31.5.2021. To buttress his arguments, he has placed on record the copies of the testimonies of the victim and her mother deposed before the trial Court. He submits that both these material witnesses have been examined as PW-1 and PW-2, respectively. A perusal of the same would show that both have not supported the case of the prosecution and hence, on the request of learned Public Prosecutor, they were declared hostile. He submits that as the material witnesses have not supported the case of the prosecution, further incarceration of the petitioner is unwarranted, hence, he deserves to be

enlarged on bail.

Learned State counsel has submitted that there are specific allegations against the petitioner. She submits that in the FIR, as well as in the statement recorded under Section 164 Cr.P.C., the prosecutrix has supported the case of the prosecution. However, she candidly acknowledges that now the victim and her mother have been examined but they have not supported the case of the prosecution. She further submits that in all there are 19 prosecution witnesses, out of which these 2 witnesses have been examined.

Heard.

The petitioner is behind bars since 25.7.2021. Out of total 19 prosecution witnesses, 2 material witnesses have been examined. The perusal of the testimonies of these witnesses would show that the victim, who is of the age of majority deposed before the trial Court that at about 7:15 p.m., when she was standing in the street, some unknown person with muffled face teased her and ran away from the spot. The accused Lakhvir Singh neither entered into her house nor tried to commit rape on her. Similarly, the mother of the victim also deposed on the same line. This Court would refrain from commenting on the merits of the case. The veracity of the allegations and counter-allegations would be evaluated by the trial Court only after conclusion of the trial. The trial of the case will take sufficiently long time and no useful purpose will be served by keeping the petitioner in custody for such a long time. In the overall facts and circumstances of the case, I am of the opinion that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the

petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

9.2.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

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