

CRM-M-37223-2022

Date of decision: 12.12.2022

MANJIT KUMAR @ MANJIT

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Manu Loona, Advocate for the petitioner.

Mr. Iqbal Singh Mann, DAG, Punjab.

VIVEK PURI, J. (ORAL)

Custody certificate of the petitioner has been circulated today and the same is taken on record.

Manjit Kumar @ Manjit-petitioner is seeking regular bail in the case bearing FIR No.148 dated 24.11.2020 under Sections 363/366-A/376 IPC and Sections 5/6 of Protection of Children from the Sexual Offence Act (Sections 376 IPC and Sections 5/6 of POCSO Act were added later on), registered at Police Station Sadar Abohar, District Fazilka.

Briefly, the FIR has been registered on the basis of the statement of the father of the victim who is stated to be aged about 15 years alleging that she went missing from the house on 16.11.2021. It has been further alleged that the petitioner had enticed her on the allurements of marriage.

Learned counsel for the petitioner contends that there is a delay of 08 days in lodging the FIR and the victim was recovered on 29.01.2022. In her statement recorded under Section 164 Cr.P.C, it has been stated that she left the house of her own free will and accompanied the petitioner. There is no allegation

with regard to commission of sexual intercourse and it has been further stated that

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the parents of the victim intended to forcibly engage her with the brother-in-law of her aunt (Bua). However, during the course of her statement in the trial Court, she has attributed allegations with regard to commission of forcible sexual intercourse but no such version has been spelt out in the statement under Section 164 Cr.P.C. Even, no semen was detected as per the report of the chemical examiner. The petitioner is in custody for a period of 01 year, 10 months and 14 days and is not involved in any other case.

Learned State counsel has opposed the bail application on the score that the victim was aged about 15 years at the time of occurrence and she has attributed allegations with regard to commission of forcible sexual intercourse against the petitioner while appearing in the witness box. However, it has not been disputed that no such allegation has been spelt out in the statement under Section 164 Cr.P.C and no semen has been detected as per the report of chemical examiner. So far only 05, out of 18 witnesses have been examined.

It is significant to note that there is no allegation with regard to exercise of any threat, pressure or allurement attributed to the petitioner by the victim in her statement recorded under Section 164 Cr.P.C. Even, she has not attributed allegations of commission of sexual intercourse in the said statement. As per the report of chemical examiner, no semen has been detected. The statement of the victim during the course of trial has been recorded. As such it cannot be said that the petitioner can in any manner win over or influence the victim. The petitioner is in custody for a period of 01 year, 10 months and 14 days and is not involved in any other case. So far, only 05, out of 18 witnesses have been examined. The conclusion of trial is likely to take sometime. No fruitful purpose will be served by detaining the petitioner in further custody. As such, sufficient mitigating circumstances are made out to extend the concession of bail

Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

12.12.2022

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(VIVEK PURI)
JUDGE

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