

213 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46693-2021

Date of Decision: 07.03.2022

RULDA RAM

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr.Akhilesh Vyas , Advocate
for the petitioner.

Ms. Ruchika Sabherwal, AAG, Punjab.

VIVEK PURI, J.(ORAL)

The matter has been taken up through video-conferencing due to COVID-19 pandemic.

Custody certificate has been placed on record.

Through instant petition, the petitioner is seeking regular bail in case bearing FIR No.58 dated 26.04.2021 under Section 376 IPC and Section 4 of Protection of Children From Sexual Offences Act, registered at Police Station Sadar Rupnagar, District Rupnagar.

Briefly, the case has been registered on the basis of the statement of the victim alleging that she is aged about 16 years and the petitioner, who is her uncle, had been committing rape upon her.

Learned counsel for the petitioner contends that the petitioner is paternal uncle of the victim; during the course of trial, the victim has not imputed allegations against the petitioner and even her mother and father have not imputed the allegations of commission of rape by the petitioner during the course of their statements recorded in the trial Court. It has also been argued that the victim had been leaving her house on account of friendly relations with other person. Even in her statement under Section 164 Cr.P.C., the victim has not levelled any allegation of commission of rape against the petitioner, though, there are allegations that he had been outraging her modesty when she was 11 years old.

Learned State counsel, on instructions from ASI Balvir Singh, has not assailed the aforesaid factual aspects of the matter and has stated that out of 21, 20 witnesses have already been examined.

It is significant to note that the victim and her parents have not supported the prosecution version. It is also emerging in the statement of the victim that she had developed friendly relations with a boy and her family members came to know about the same. Furthermore, on a query by the Court, learned State counsel has also pointed out that in the report of Chemical Examiner, no spermatozoa were detected.

The learned trial Court has dismissed the application for bail primarily on the score that since there are different versions emerging in the statement of the victim and the allegations against the petitioner being serious and he being paternal uncle of the victim has been charge sheeted for the offences of penetrative sexual assault upon the minor victim.

It may be mentioned here that the allegations of penetrative sexual assault levelled against the petitioner will be a debatable issue in view of the statement of the victim, her parents and the report of the Chemical Examiner. Moreover, the petitioner is in custody for a period of 10 months and 11 days and not involved in any other case. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate.

07.03.2022
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No