

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

112+148

CRM-M No.40988 of 2022 (O & M)
Date of decision:12.10.2022

Sukhdev Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. P.S. Grewal, DAG, Punjab.

SUVIR SEHGAL J. (ORAL)

CRM-37750-2022

Noticing the prayer made in the application, it is allowed.

Date of hearing of the main petition is preponed from
14.12.2022 to today and is ordered to be taken on Board.

CRM-37752-2022

Application is allowed as prayed for.

Testimony of the complainant, mother of the prosecutrix as
well as the prosecutrix, who have been examined as PW-1 to PW-3,
respectively, are taken on record as Annexure A-1 (collectively).

Main Case

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.05, dated 12.01.2022 registered for offence under Sections 346, 363, 366-A, 120-B and 376 of IPC, 1860, and Section 06 of the Protection of Children from Sexual Offences Act, 2012, at Police Station City Sri Muktsar Sahib, District Sri Muktsar Sahib, Annexure P-1.

Case of the prosecution is that FIR, Annexure P-1, has been registered on the complaint of father of a 17 ½ year old girl (hereinafter referred to as “the prosecutrix”) on the allegation that she is missing from her parental home. It has been further alleged that she has taken Rs.20,000/- as well as a mobile with two activated sims with her and despite extensive search, she could not be located.

Counsel for the petitioner has argued that the petitioner has neither been named in the FIR nor in the statement of the prosecutrix recorded under Section 164 of Cr.P.C. By making a reference to the deposition of the material witnesses, Annexure A-1, he urges that no role has been ascribed to him by any of the star witnesses examined by the State. Counsel submits that the petitioner has been named as an accused during the course of investigation by two relatives of the prosecutrix and they have not been summoned as witnesses. He asserts that the petitioner, who is a middle aged person with clean antecedents, deserves to be enlarged on bail as he is in incarceration since 17.01.2022.

Per Contra, State counsel, upon instructions from ASI Devender Singh, has opposed the petition and has contended that the

date of birth of the prosecutrix is 17.07.2004 and she has levelled specific allegations of sexual assault against Amritpal Singh, son of the petitioner. He submits that Amritpal Singh had enticed the prosecutrix and was encouraged by the petitioner. He, however, could not deny the fact that the petitioner has not been named by any of the crucial witnesses in their deposition.

Having considered the submissions addressed by counsel for the parties, but without advertng to the merits or de-merits of the arguments addressed, this Court is *prima facie* of the view that the culpability of the petitioner in the crime would remain controvertible before the trial court. Keeping in view that all the material witnesses have been examined, trial is likely to take time to conclude as 15 more witnesses are yet to step into the witness-box, length of custody and the circumstances, in which the petitioner has been named as an accused, this Court is of the opinion that the petitioner deserves to be released on bail during the pendency of the trial.

Petition is allowed. Petitioner is ordered to be enlarged on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

12.10.2022
sheetal

(SUVIR SEHGAL)
JUDGE

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