

CRM-M-46954-2021 (O&M)
Date of decision-10.01.2022

Jit Singh

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Amandeep Singh Rai, Advocate for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

Heard through video conferencing.

CRM-43455-2021

Application is allowed as prayed for.

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Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, seeking grant of regular bail to the petitioner in case FIR No.66, dated 31.03.2021 registered for offence under Sections 354, 354-C, 376, 511 of IPC, 1860 and Sections 4, 15 and 18 of POCSO Act, 2012, at Police Station Samana, District Patiala (Annexure P-3).

As per the version of the prosecution, FIR (Annexure P-3) has been registered on the statement of the Sandeep Kaur wife of Satgur Singh on the allegation that she has four children and her eldest daughter (name

withheld as per Section 33 (7) of the POCSO Act, and hereinafter referred to as 'the victim'), who is 14 years of age and is differently abled (mentally retarded) by birth was molested by Jit Singh, present petitioner, and his grandson, Satnam Singh @ Satta and they tried to rape her. On getting this information from Bhagwan Singh, a Panchayat Member, where the complainant does household work, she lodged the complaint.

By referring to the Aadhar Card, Annexure P-1, counsel for the petitioner submits that the date of birth of the petitioner is 01.01.1930 and he is more than 92 years of age. He submits that the petitioner is 100% blind and even the doctor, who has stepped into the witness box as PW-8 has stated that the petitioner is "bilaterally PL Negative/PR Negative i.e. patient cannot see anything". Counsel has referred to the statement of the complainant, Annexure P-7, who appeared in the witness box as PW-4 to submit that she has not supported the case of the prosecution. He submits that the petitioner, who is in custody since 02.04.2021 and has unblemished past, is no longer required for custodial investigation and deserves to be released on bail.

Per contra, learned State counsel upon instructions from ASI Jaswant Singh, has opposed the petition. He has invited the attention of the Court to the statement of Harvinder Singh (PW-6) to submit that in his examination-in-chief, he has deposed that he has seen the CD of the victim where he can identify both the victim as well as Jit Singh, present petitioner. Still further, he has also referred to the Certificate for the persons with disabilities, which is dated 13.02.2008, Annexure P-2, to submit that the age of the petitioner as recorded therein is 78 years. As per his instructions, 09 out of 23 prosecution witnesses have been examined.

I have heard counsel for the parties.

Considered the circumstances of this case, the period of incarceration of the petitioner and that he is of an advanced age and is reported to be blind, this Court is of the view that he deserves to be released on bail during the pendency of the trial, which is likely to take time to conclude.

Petition is accordingly allowed. The petitioner is ordered to be released 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.

(SUVIR SEHGAL)
JUDGE

10.01.2022
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Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No