

CRM-M-44090-2020

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(215)

CRM-M-44090-2020.

Date of Decision:-28.02.2022.

Mandeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Preetwinder Singh Dhaliwal, Advocate for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.69 dated 25.05.2020 under Sections 354, 376, 451 of IPC and Sections 3, 4 and 8 of Prevention of Children from Sexual Offences Act, 2012, registered at Police Station Jagraon Sadar, District Ludhiana Rural.

As per the factual matrix, the present FIR was registered on the statement of Kuldeep Singh. It was alleged that he had three children out of which his daughter-victim (name concealed) having aged about 13 years, on the date of occurrence, at about 11:45 a.m. was alone at home. The moment his son came to home, he saw that Mandeep Singh, S/o Gurwinder Singh came out of the room and he ran away by pushing his son. He saw his sister alone in the room. On asking, she told that finding her alone,

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Mandeep Singh came to the house and committed wrong act with her and when she tried to raise an alarm, he shut her mouth with his hand and on seeing her brother, he ran away. His son Gurmukh Singh called him and some family members and thereafter, the present FIR was lodged with the request to take legal action against the petitioner. The investigation commenced and the petitioner was arrested on 26.05.2020. He approached the learned Additional Sessions Judge, Ludhiana for grant of bail, who after hearing counsel for the parties, declined the same vide order dated 11.09.2020. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. He submits that the lodging of the FIR would show that the prosecutrix herself had leveled allegations of committing wrong act with her and it was never alleged that the petitioner committed any rape with the prosecutrix. He submits that during investigation, after due deliberations, the offence under Section 376 IPC was incorporated. He has drawn the attention of this Court to the MLR of the prosecutrix conducted after the incident, which would show no injury marks on her body or private parts. He submits that the material witnesses including the prosecutrix have been examined by the trial Court. He vehemently argues that during her cross-examination before the trial Court, the prosecutrix had deposed that she did not get recorded that the accused committed rape upon her, whereas, she only got recorded that he did wrong act with her. He submits that in the facts and circumstances, it is apparent that the petitioner has been booked only on account of the prosecutrix being a minor. Even otherwise, as the material witnesses stand examined, there

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cannot be any threat or apprehension of tampering or influencing the witnesses by the petitioner during trial. Hence, the petitioner be granted regular bail.

Learned State counsel, on the other hand, has opposed the present petition. She submits that the prosecutrix is less than 15 years of age. She submits that even if any consent whatsoever is alleged, the same has no legal sanctity because the prosecutrix is minor. However, she submits that all the material witnesses already stand examined and they have supported the case of the prosecution. She has submitted that out of 16 witnesses, 04 prosecution witnesses have been examined including the victim.

I have heard learned counsel for the parties and perused the records.

The petitioner is a young boy of 22 years of age. He is behind the bars since 26.05.2020. The material witnesses already stand examined. The veracity of the allegations would be the subject matter of the outcome of the trial. This Court would refrain from commenting anything on the merits of the case and the allegations and the counter-allegations would be evaluated by the trial Court on the conclusion of the evidence to be led before it by the parties. In the overall facts and circumstances of the case, it is apparent that the trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time.

Keeping in view the abovesaid facts, this Court finds that learned counsel for the petitioner has succeeded in making out a case for grant of regular bail.

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Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds 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.

(RAJESH BHARDWAJ)
JUDGE

February 28, 2022.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No