IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

215+105 **CRM-M No.48915 of 2021 (O & M)**
Date of decision:04.08.2022

Sukhdeep Kaur ... Petitioner

Vs.

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. C.M. Munjal, Advocate for the petitioner.

Mr. A.S. Gill, Sr. DAG, Punjab.

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SUVIR SEHGAL J. (ORAL)

CRM No.19835 of 2022

Application is allowed as prayed for.

Annexures P-3 to P-5 are taken on record.

Main Case

Mr. C.M. Munjal, Advocate has put in appearance on behalf of the petitioner and has filed his Vakalatnama with a 'no objection' from the previous counsel, which is taken on record.

This is the first petition filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No.236 dated 19.08.2021 registered under Sections 376, 120-B and 506 of IPC, 1860, and Sections 05 and 06 of the Protection of Children from Sexual Offences Act, 2012, at Police Station Lambi, District Sri Muktsar Sahib, Annexure P-1.

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Version of the prosecution is that FIR, Annexure P-1, has been registered on the statement of an 18 year old girl (for short "the prosecutrix") on the allegation that her date of birth is 26.02.2003 and Harpinder Singh, husband of Sukhdeep Kaur (present petitioner), who was the driver of the school van in which she used to travel, has sexually assaulted her. He forced her to send her nude pictures and videos and under the threat of making them viral, sexually exploited her on several occasions. It has been alleged that when the petitioner came to know of this, she got the prosecutrix engaged to her brother, Harpreet Singh, who lives in Germany and despite the fact that the prosecutrix was not interested in talking to Harpreet, used to force her to talk to her brother. Even after her engagement, Harpinder, allegedly sexually assaulted the prosecutrix.

Counsel for the petitioner has urged that the petitioner was not aware of the alleged activities of her husband and the allegations levelled against her are false. It has been argued that the petitioner had no role in the alleged sexual assault of the prosecutrix. By referring to the testimony of the prosecutrix, her grand-mother and father, Annexures P-3 to P-5 respectively, he submits that the crucial prosecution witnesses have been examined and the petitioner, who is a middle aged lady and is in custody since 20.08.2021, deserves to be enlarged on bail.

Per Contra, State counsel, upon instructions from HC Sandeep Singh, has opposed the petition. By referring to the allegations, he submits that the petitioner was in the know of things. Still further, upon instructions, he submits that 04 out of 24 prosecution witnesses have

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been examined and FSL report is awaited.

Having heard counsel for the parties, this Court is *prima facie* of the view that the culpability of the petitioner in the crime would remain controvertible before the trial court. The trial is at an initial stage and is likely to take time to conclude as the prosecution has to examine 20 more witnesses, though the material witnesses stand examined. This Court is, therefore, of the opinion that the petitioner would be entitled to be released on bail.

Without adverting to the merits or de-merits of the arguments addressed by counsel for the parties, 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.

04.08.2022 **(SUVIR SEHGAL)**
sheetal **JUDGE**

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

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