

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-M-45362-2022
Decided on : 11.10.2022**

Kulwinder Singh

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Gopal Singh Nahel, Advocate
for the petitioner(s).

Mr. AS Sandhu, AAG, Punjab
assisted by ASI Chamkaur Singh.

SANJAY VASHISTH, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner – Kulwinder Singh, who has been booked for having committed the offence punishable under Sections 377, 511 of IPC and Section 8 of the POCSO Act, 2012, in FIR No. 57, dated 09.03.2022, registered at Police Station Bhawanigarh, District Sangrur, during the pendency of trial.

At the outset, learned State counsel has filed the custody certificate dated 08.10.2022 in Court today. Same is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

A copy thereof has been handed over to the counsel for the petitioner.

The allegations against the petitioner is that being a Granthi, he made attempt of unnatural sexual intercourse with the minor boy aged 15 years, however, on the intervening of the complainant i.e. father of the victim, petitioner could not succeed, and therefore, charges under Section

377, 511 of IPC and Section 8 of the POCSO Act, 2012, were framed against the petitioner.

Learned counsel for the petitioner argues that victim as well as the complainant Kuldeep Singh, both have been examined and supported the original version of the prosecution. Learned counsel further submits that in view of the said status of trial, there would not be any chance of impressing upon or influencing the material witnesses of the case.

Learned counsel for the petitioner also submits that as per deposition of the material witnesses, petitioner is said to have made attempt only to do the unnatural act with the victim.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, argues that it is a shameful act done by the Granthi i.e. present petitioner. He further submits that he has betrayed the faith of the society also. However, learned state counsel does not dispute that petitioner is inside jail for more than 07 months and there is no other case registered of any kind against the petitioner.

Learned State counsel also submits that only the material witnesses i.e. victim and the complainant have been examined out of total 15 prosecution witnesses, so far.

I have heard learned counsel for the parties and perused the relevant material on record.

Undoubtedly, petitioner is found involved in unnatural and shameful activity, though, could not fully succeeded in his malicious aim. Still considering the fact that both the material witnesses i.e. victim and the complainant, have already been examined and petitioner, who is said to be of 54 years of age, is not involved in any other similar shameful act in his

past, this Court deems it appropriate to release the petitioner on bail during the pendency of trial. Apart from this, it is also noticeable that both the material witnesses i.e. victim and complainant, have been examined, there would not be any chance for petitioner to tamper with the evidence or to apply influence over the private witnesses. Petitioner is inside jail for the last more than 07 months and there is no other case registered against him and trial would take considerable time to conclude.

After considering all the aspects, prayer made in the present petition is **allowed**. Petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

Needless to observe that the petitioner shall not extend any threat and shall not influence any of the remaining prosecution witness in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression of opinion on the facts of the case and the Trial Court is expected to decide the case on the basis of complete evidence available on record.

Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

October 11, 2022

J.Ram

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