

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

210+111

CRM-M-48718-2022 (O & M)  
Date of decision:11.11.2022

Feroze (Firoj) Khan

... Petitioner

Vs.

State of Punjab

... Respondent

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. Naveen Batra, Advocate for the petitioner.

Mr. Jasmanpreet Singh, DAG, Punjab.

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**SUVIR SEHGAL J. (ORAL)**

**CRM-42536-2022**

Application is allowed as prayed for.

MLR is taken on record as Annexure P-6.

**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.138, dated 10.07.2021 registered for the offences under Sections 376 and 506 of IPC, 1860, and Section 04 of the Protection of Children from Sexual Offences Act, 2012, at Police Station Sadar, Khanna, District Khanna, Annexure P-1.

Version of the prosecution is that FIR, Annexure P-1, has been registered on the statement of the mother of a school going 14 year old girl (hereinafter referred to as “the prosecutrix”) on the allegation

that on 09.07.2021, she saw that Feroze (present petitioner), took her daughter with him on his motorcycle. When her daughter returned, she was very nervous and did not reveal anything. After she calmed down, she confided that Feroze had taken her to the house of his friend, where he raped her and threatened her from disclosing the incident to her family. She complained of pain and bleeding.

By referring to the testimony of the complainant, her husband and the prosecutrix, who have been examined as PW-1 to PW-3, respectively, counsel for the petitioner submits that all the 03 star prosecution witnesses have not supported the case. He submits that the prosecutrix in her deposition as stated that she had gone to the house of her maternal aunt and came back in the evening, but in the meantime her parents panicked and reported her absence to the police. While inviting the attention of the Court to the MLR, Annexure P-6, counsel urges that no external injury was found on the body of the prosecutrix. He submits that the petitioner, who is in custody since 14.07.2021, deserves to be enlarged on bail as his further confinement will not serve any purpose.

Per Contra, learned State counsel, upon instructions from ASI Avtar Singh, has opposed the petition and has submitted that the petitioner is accused of sexually assaulting a minor. It is his submission that there are specific allegations against the petitioner, whose name has been mentioned in the FIR. As per his instructions, the prosecutrix has supported the allegations of sexual exploitation in her statement under Section 164 of Cr.P.C., though as per DNA report, human semen and male DNA has not been detected on the vaginal swabs of the prosecutrix.

Having heard counsel for the parties, this Court is *prima facie* of the view that the involvement of the petitioner in the offence would be determined by the trial court. Petitioner, who has been in custody for the last more than 19 months, material prosecution witnesses having been examined, this Court is of the opinion that the petitioner deserves to be released on bail during the pendency of the trial.

Without advertng to the merits or de-merits of the arguments addressed, 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.

11.11.2022

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(SUVIR SEHGAL)  
JUDGE

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |