

CRM-M-48751-2022

Date of decision: 28.10.2022

DALER SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. G.S.Nagra, Advocate for the petitioner.

Mr. Hittan Nehra, Addl. AG, Punjab.

VIVEK PURI, J. (ORAL)

Custody certificate of the petitioner has been circulated today and the same is taken on record.

Daler Singh-petitioner is seeking regular bail in the case bearing FIR No.239 dated 24.09.2021 under Sections 376/363/366-A/506 IPC and Section 4 of Protection of Children from Sexual Offences Act (Amendment), 2012 registered at Police Station Lopoke, District Amritsar Rural.

Briefly, the allegations against the petitioner are to the effect that he is an uncle of the victim, who is aged about 15 years and had committed penetrative sexual assault upon her.

Learned counsel for the petitioner contends that during the course of trial, the victim as well as her mother have not supported the prosecution version and have not attributed allegations of commission of penetrative sexual assault against the petitioner. The petitioner is in custody for a period of 01 year and 29 days and is not involved in any other case. Out of 14, 08 witnesses have been examined.

Learned State counsel has opposed the bail application on the score

assault upon the petitioner in her statement under Section 164 Cr.P.C and she was aged about 15 years at the time of occurrence. However, it has not been disputed that no spermatozoa was detected during the course of medico legal examination as she was medico legal examined after a period of one week from the occurrence.

It is significant to note that the victim and her mother have not supported the prosecution version during the course of trial. There is nothing to suggest that during the medico legal examination, spermatozoa were detected. The petitioner is in custody for a period of 01 year and 29 days and is not involved in any other case. Out of 14, 08 witnesses have been examined. It has not been disputed that the remaining witnesses to be examined are official witnesses only. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner.

Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

28.10.2022

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(VIVEK PURI)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No