

AVTAR SINGH

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. PBS Goraya, Advocate for the petitioner.  
Mr. Amit Shukla, AAG Punjab.  
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**VIVEK PURI, J. (ORAL)**

The petitioner is seeking regular bail in case bearing FIR No.73 dated 05.05.2020, under Sections 363, 366, 366-A, 376-DA, 109, 120-B IPC and Sections 3, 4, 5(G), 6, 17 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Khalra, District Tarn Taran.

Learned counsel for the petitioner contends that the FIR has been registered on the basis of the statement of the mother of the victim, who is stated to be aged about 16 years at the time of occurrence alleging that the victim has been kidnapped by the petitioner. Although, the victim has imputed the allegations against the petitioner in her statement recorded under Section 164 Cr.P.C. but during the course of trial, neither the victim nor her mother have supported the prosecution version. During the course of her deposition in the Court, the victim has specifically stated that she cannot identify the petitioner and is seeing him for the first time in the Court. He had not done any illegal act nor committed rape upon her. It has been further submitted that at the time of medico-legal examination, it was observed that the last incident of alleged sexual assault was took place about 2 months back and even no spermatozoa have been detected. The petitioner is in custody for a period of 2 years, 6 months and 18 days. It has been further submitted that 7 out of

18 witnesses have been examined so far but the conclusion of trial is likely to take some more time as Lakhwinder Singh, the brother; Paramjit Kaur, the mother; and Roop Kaur, the sister-in-law of the petitioner have been arrested.

Learned State counsel has not assailed the aforesaid factual aspects. However, it has been submitted that the petitioner is involved in another case under NDPS Act which has been registered while he was confined in the prison.

The consequence of registration of the case under NDPS Act while in jail will follow in due course and in the peculiar circumstances in the instant case, it cannot be termed to be a ground to deny the concession of bail to the petitioner.

Keeping in view the submissions made by learned counsel for the petitioner and particularly, the fact that the victim has not supported the prosecution version and even during the course of medico-legal examination no spermatozoa have been detected and the period of detention undergone by the petitioner, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner.

Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

**(VIVEK PURI)**  
**JUDGE**

**23.11.2022**

Janki

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