

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-56207 of 2022
Date of decision:21.12.2022

Harpreet Singh

... Petitioner

Vs.

The State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Madan Sandhu, Advocate
for the petitioner.

Mr. Ferry Sofat, Addl.A.G., Punjab.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in case FIR No.24 dated 08.04.2022 registered under Sections 363, 366-A of Indian Penal Code, 1860, however, Section 376 IPC and Sections 3, 4 of the Protection of Children from Sexual Offences Act, 2012 (for short “the POCSO Act”) were added later on, at Police Station Sadar Budhlada, District Mansa.

Case of the prosecution is that above-mentioned FIR has been registered on the statement of father of a 17 year old girl (hereinafter referred to as “the prosecutrix”) stating that his daughter, whose date of birth is 20.07.2005 and is a student of 10+2 in a Government School, has been enticed by Harpreet Singh, present petitioner, on the pretext of marriage. He has stated that she went to attend school on 04.04.2022, but

did not return.

Counsel for the petitioner submits that upon recovery, statement of the prosecutrix has been recorded under Section 164 of the Code, on 13.04.2022 (Annexure P-1), wherein, she has stated that she is in love with the petitioner and is in physical relationship with him for the last one year. By referring to the testimony of the prosecutrix (PW-1), he submits that she has not supported the case of the prosecution and has stated that she went with the accused to different cities of her own volition. Counsel submits that as per FSL report (Annexure P-5), human semen has not been detected on the vaginal swab and smear slides of the prosecutrix. Counsel submits that the petitioner, who has an unblemished past and is in custody since 13.04.2022, deserves to be enlarged on bail.

Countering the submissions made by counsel for the petitioner, State counsel, upon instructions from ASI Teja Singh, submits that there are specific allegations against the petitioner and the complainant (PW-5), has supported the allegations. Upon instructions, he submits that prosecutrix, who is a minor was recovered from the custody of the petitioner. He submits that trial is underway and 05 out of total 18 prosecution witnesses have been examined.

I have heard counsel for the parties.

Arguments and counter-arguments addressed by counsel for the parties would remain subject matter of determination by the Trial Court. The issue as to whether the physical relationship with a minor with her consent would attract offence under Section 376 IPC and under the POCSO

Act, would also be adjudicated by the Trial Court and does not deserve any comment from this Court, at this stage. Petitioner, who is in custody for the last 08 months, would be entitled to be released on bail as the trial is likely to take time to conclude.

In view of the above, but without advertng to the arguments addressed, petition is allowed. Petitioner is ordered to be released 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

December 21, 2022

savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>