

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

210

CRM-M-21521-2023

Date of Decision: 02.06.2023

Vinay Kumar @ Kajal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Ms. Jasneet Mehra, Advocate for
Ms. Janika Jain, Advocate for the petitioner

Mr. Shiva Khurmi, AAG, Punjab
(assisted by ASI Gurnaib Singh)

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking concession of regular bail in FIR No.72 dated 02.06.2022 under Sections 376 & 506 of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Nangal, Rupnagar.

2. The case of the prosecution is that on 02.06.2022, prosecutrix got her statement recorded alleging that she used to visit her maternal grandparents frequently. There she met one boy namely, Vinay Kumar who used to come to home of her maternal aunt. She exchanged her mobile number with Vinay Kumar and they started talking with each other. On 27.04.2022 at about 11:00 PM, Vinay Kumar came on motorcycle to her parental grandparents' house and took her to his room and forcibly made physical relations with her.

3. Learned counsel for the petitioner, *inter alia* contends that there is no medical evidence disclosing commission of offence of rape. The

prosecutrix had accepted that they used to talk with each other. The conversation recorded in CD confirms that prosecutrix herself came to the petitioner. She is a matured and well-educated lady and can understand consequences of her act and omissions. The petitioner is in custody since 06.06.2022 and he is not involved in any other offence. No recovery is to be effected from the petitioner. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Rupnagar. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 17.05.2023 is taken on record. As per custody certificate, the petitioner is in custody since 07.06.2022 and he is not involved in any other offence.

5. Learned State Counsel submits that police report has already been filed and charges stand framed. He further submits that out of 17 witnesses, only one witness i.e. prosecutrix has been examined. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

6. The petitioner is in custody since 07.06.2022 and he is not involved in any other offence. Police report under section 173 of Cr.P.C. stands filed, charges stand framed. No recovery is to be effected from the petitioner. The prosecutrix was major at the time of commission of alleged offence. There is no medical evidence. The Trial Court yet has to return definite findings on the disputed issues. There are 17 prosecution witnesses and till date only prosecutrix has been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The material witness i.e.

prosecutrix stands examined, thus, there is no possibility of winning over or pressurizing her. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

8. If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

9. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

02.06.2023
Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No