

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25739-2021 (O&M)
Date of decision: 17.01.2023

Jivtesh Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. H.S. Deol, Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

Mr. P.S. Ahluwalia, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

CRM-1735-2023

For the reasons stated in the application, same is allowed and
Annexures P-18 to 26 are taken on record. Exemption sought is granted.

CRM stands disposed of.

CRM-M-25739-2021

Prayer in this 2nd petition is for grant of regular bail in FIR No.108
dated 20.04.2020 under Sections 363, 376 (2) (N), 384 IPC and Section 6 of
POCSO Act, registered at Police Station Civil Lines, Patiala, District Patiala;
earlier one was dismissed vide order dated 24.03.2021.

Learned counsel for the petitioner submits that new ground for

filing this second petition is that the prosecutrix as well as her father have already been examined and custody of the petitioner is about 02 years and 08 months and at the time of commission of offence, he was aged about 19 years; he is a student and is suffering his studies on account of his long custody.

Brief facts of the case are that FIR was got registered by the complainant 'G' (name not disclosed), with the allegations that she became friend of sister of the petitioner in month of August, 2019 and thereafter, she was repeatedly raped and blackmailed by the petitioner.

Learned counsel for the petitioner has referred to statements of the prosecutrix, who appeared as PW9 and her father, who appeared as PW18, to submit that both are consistent with the allegations in the FIR that only on 16.04.2020, the incident was brought to notice of father of the prosecutrix and in the intervening period, the petitioner and prosecutrix were exchanging letters and various other messages with each other. It is submitted that custody of the petitioner, as on today, is about 02 years and 08 months and 14 PWs have already been examined and no purpose will be served in keeping the petitioner in judicial custody.

Learned State counsel, assisted by learned counsel for the complainant and on instructions from ASI Pawan Kumar, has submitted that the prosecutrix was around 16 years of age and the police has collected sufficient evidence that she was blackmailed, as obscene material was recovered from the mobile phone, however, as per the custody certificate, filed in the Court today, it is not disputed that the petitioner is in custody for the last 02 years, 08 months and 05 days; he is not involved in any other case and both the star witnesses have already been examined.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering age of the petitioner; his long custody as well as the fact that relevant witnesses have already been examined and also in view of judgment of the Hon'ble Supreme Court in **Satender Kumar Antil Vs. Central Bureau of Investigation and anr., SLP (Crl.) No.5191 of 2021, decided on 11.07.2022**, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.

However, this will be subject to the condition that the petitioner will not visit the place of residence of the victim and will not try to contact her either on phone or by any other mode. The petitioner will not circulate any obscene material relating to the victim in any manner and in case, any violation is made, it will be open for the prosecution to apply for cancellation of bail.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

17.01.2023
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No