

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

208

**CRM-M-23696-2022
Date of decision: 01.02.2023**

Shiv Sagar

.....Petitioner

Versus

The State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gaurav Gupta, Advocate for the petitioner.

Mr. Sanish Girdhar, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This is the second petition filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case FIR No.68 dated 05.07.2020 lodged under Sections 376, 376(a)(b) and 511 of the IPC and Sections 4, 6 and 18 of the POCSO Act registered at Police Station Balongi, District Mohali.

Learned counsel for the petitioner submits that subsequent to the dismissal of the previous petition on 26.03.2021, wherein the petitioner had sought similar relief, only 03 prosecution witnesses out of the 15 cited, stand examined. He further submits that the allegations levelled in the FIR in question are patently false and fabricated. He submits that the petitioner has been falsely implicated in the case in hand because of a history of animosity between the families. He further submits that the petitioner has now been in custody since 05.07.2020 and the trial shall take considerable time to conclude as 12 prosecution witnesses remain to be examined.

Per contra, learned State counsel has opposed the prayer and submissions made by the counsel opposite. Learned State counsel while inviting the attention of this Court to the FIR which has been

annexed as Annexure P-1, submits that a perusal of the allegations levelled therein reveal that the petitioner was not only named in the FIR in question but there are very serious allegations levelled against him of violating the person of the victim who was just one and a half years of age on the date of the alleged occurrence. He submits that there is medical evidence also on record which corroborates the allegations levelled in the FIR in question. In support, learned State counsel has drawn the attention of this Court to the MLR annexed as Annexure P-2 wherein the attending doctor on examination of the victim noticed the following:-

“Physical Development - O/E Victim PA Soft, LE redness in the vulva. No bleeding, hymen seems intact. Vulva-swab taken Exhibit 1, Exhibit 2 control. Liquid blood edta vial/non edta vial”.

Learned State counsel has further submitted that the doctor gave an opinion that possibility of sexual assault could not be ruled out.

I have heard learned counsel for the parties and perused the material placed on record.

The petitioner prima facie has committed a heinous offence of violating the person of a one and a half year old girl for which he does not deserve the concession of bail.

Accordingly, the instant petition is dismissed.

However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

01.02.2023

(MANJARI NEHRU KAUL)

Vinay

JUDGE

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