

**207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-28340-2023****Date of decision : 29.11.2023****Jagroop Singh @ Jaggu****.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ***********Present :- Mr. Amit Arora, Advocate
for the petitioner.****Ms. Akshita Chauhan, DAG, Punjab assisted by
ASI Kirpal Singh.***********RAJESH BHARDWAJ, J. (Oral)**

Petitioner has approached this Court by way of present second petition praying for grant of regular bail in case FIR No.29 dated 28.02.2020, under Sections 363, 366, 376-D, 506 IPC and Sections 3, 4, 5, 6 of The Protection of Children from Sexual Offences Act, 2012 (offence under Section 366 IPC deleted and offence under Section 366-A IPC added later on and offence under Section 5 of POCSO Act stand deleted) at Police Station Sadar Patti, District Tarn Taran.

Adumbrated facts of the case are that the prosecutrix (name concealed) recorded her statement before the police wherein it was alleged that she was a student of 10+1 class in Government Girls Secondary School. On 27.02.2020, she was in her school and at about 09:00 AM, Jagroop Singh @ Jaggu and Lovepreet Singh @ Babba came to her school. They stated before her Madam that her mother was not well and hence, she be sent with them. On their saying, she was sent with them. Thereafter, both of them forcibly took her on the motorcycle and

instead of taking her to the village they took her on the other side of the village. After taking her in a remote place, she was sexually assaulted by both of them turn by turn. At about 08:30 PM, in the evening, she was dropped by them near Gurdwara Baba Sahida and from there she reached her home and disclosed the entire incident to her family members. It was alleged that both the accused committed wrong act with her and legal action be taken against the culprits. On her statement, formal FIR was registered and investigation commenced. The statement of the victim was recorded under Section 164 Cr.P.C. and she was medically examined. The accused/petitioner was arrested on 03.03.2020. He approached the Court of learned Additional Sessions Judge, Tarn Taran praying for grant of bail however, the same was declined vide order dated 14.10.2020. Thereafter, he approached this Court on the earlier occasion by way of filing CRM-M-37488-2020 however, the same was dismissed as withdrawn vide order dated 19.12.2022. Hence, petitioner is before this Court by way of filing the present second petition.

Learned counsel for the petitioner has vehemently contended that petitioner has been falsely implicated in this case. He has submitted that as per the certificate issued by the Government Elementary School, date of birth of the prosecutrix was recorded as 11.12.2001 and thus, she was major at the time of alleged occurrence. He has submitted that to implicate the petitioner in a false case, the victim has been shown to be minor. He has further submitted that from the facts and circumstances of the case, petitioner has committed no forcible act on the alleged victim. He submits that the petitioner is behind bars from last about 03 years 08 months however, till date only 03 witnesses have been examined by the

prosecution. He has submitted that the petitioner has no criminal antecedents and the trial is being prolonged only in order to prolong the incarceration of the petitioner. He submits that petitioner deserves to be granted bail especially keeping in view the long custody period of the petitioner as under trial accused.

Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. She submits that as per the matriculation certificate recovered, the victim was 16 years and 03 months of age at the time of occurrence and thus, was minor. She submits that the FIR has been lodged on the statement of victim and thereafter, her statement was recorded under Section 164 Cr.P.C. as well. She further submits that now the prosecutrix has also been examined by the trial Court as prosecution witness and throughout she has supported the case of the prosecution wherein the petitioner along with the co-accused have committed gang rape with the victim. She submits that out of 23 prosecution witnesses, 04 witnesses including the victim and her father have been examined. She further apprised the Court that as per instructions, petitioner is not involved in any other case.

I have heard counsel for the parties and perused the record.

As evident from the record, the alleged occurrence took place on 27.02.2020 wherein the prosecutrix was taken away from the school by the petitioner and the co-accused. She returned in the Evening and then on her statement, present FIR was registered. The prosecutrix and her father have already been examined. Co-accused is said to be a juvenile who is being tried by the Juvenile Court. There is no gainsaying that the petitioner is behind bars from last about 03 years and 08 months

and out of 23 prosecution witnesses, only 04 witnesses have been examined.

This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

29.11.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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