

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

214

CRM-M-35080-2023

Date of Decision: 29.08.2023

Vinod Kumar @ Golu

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Sachin Ohri, Advocate for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 27 dated 07.04.2022 (Annexure P-1) registered under Sections 363, 366 and 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Sadar, District Pathankot.

The aforesaid FIR was registered on the statement of father of the victim which is reproduced as under:-

“Statement of Kaalu Ram S/o Arjan Ram R/o New Abadi Umarpura Batala Hall Brick Bhatta Bau Lekh Raj village Jangala Bhawani Mb. No. 9855659380 stated that I am residing at the above said mentioned address and working as a labourer at Bau Lekh Raj Brick Bhatta at village Jangala Bhawani and my family is also residing with me at Bhatha (Brick Klin). I have three daughters and one boy. My daughter whose name is Neha who is younger from my elder daughter aged 15 years and 8 months, on dated 3/4.04.2022, my daughter was sleeping along with us in night, but she woke up and went somewhere without informing us. After that we are trying to search at personal

level, then we found that one boy Vinod Kumar S/o Narinder Kumar r/o village Jheela Aamda Sakadgarh who was working at some Bhatta, who has seduced my daughter in the pretext of marriage and took her with him. Legal action must be taken against above Vinod Kumar.”

Learned counsel for the petitioner, *inter alia*, submits that the petitioner has been falsely implicated in the present case. It is submitted that all the material witnesses i.e. the victim, complainant/father of the victim and the mother of the victim have been examined by the trial Court and they all have turned hostile. It is stated that the age of the victim is disputed as in her statement dated 15.06.2023 (Annexure P-4) recorded before the trial Court, she has stated that she is 19 years old, whereas as per version in the FIR, she was 15 years and 08 months old at the time of incident. In support of his contentions, learned counsel for the petitioner relies upon an order dated 02.02.2023, passed by a co-ordinate Bench of this Court in ***CRM-M-54719-2022, ‘Krishan Kumar @ Kaka vs. State of Punjab’***. It is further submitted that the petitioner is in custody since 07.04.2023. He is not involved in any other case. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner may be released on regular bail.

Learned counsel for the State has filed custody certificate dated 28.08.2023, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 01 year, 04 months and 18 days.

Per Contra, learned counsel for the State vehemently opposed the submissions made by learned counsel for the petitioner. Status report dated 23.08.2023, filed by way of affidavit of

Sh. Sukjinderpal Singh, PPS, Deputy Superintendent of Police, Sub Division Rural, District Pathankot, on behalf of respondent-State, is taken on record. Learned counsel for the State submits that as per FSL report, human semen was not detected on the clothes of the victim. However, as per MLR (Annexure R-1/T), sexual assault cannot be ruled out. Learned counsel further submits that the date of birth of the victim was got verified by ASI Tarsem Singh from Government Primary Centre School, Basarpur Block Batala-1, District Gurdaspur, as per which the date of birth of the victim is 26.07.2006, thus, she was 15 years and 08 months old, at the time of alleged incident. Further submits that out of total 21 prosecution witnesses, 04 have been examined so far.

I have heard learned counsel for the parties.

Without commenting on merits of the case and keeping in view the totality of the facts and circumstances of the present case, including the fact that all the material witnesses have been examined and that there is no other case against the petitioner, and he is in custody since 07.04.2020, as well as the fact that conclusion of trial will take some time, the present petition is **allowed**.

The petitioner-Vinod Kumar @ Golu, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

29.08.2023
rishu

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No