

CRM-M-46523-2022

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

CRM-M-46523-2022

Date of decision: 09.03.2023

Sunil alias Sheenu

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Rishi Nijhawan, Advocate,
for the petitioner.

Mr. R.S.Budhwar, Addl. A.G. Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Through this second petition (the first one having been dismissed on 05.03.2021), the petitioner seeks regular bail in case bearing FIR No.113 dated 06.08.2019, registered at Police Station Titram, District Kaithal, under Sections 363, 366-A, 376 and 506 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

Status report dated 03.03.2023 by way of affidavit of the Deputy Superintendent of Police, Kaithal, has been filed in the Court today. The same is taken on record.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case inasmuch as there is no specific allegation against him; that the petitioner has been in custody since 12.08.2019, and that all the prosecution witnesses, including the victim and her father (complainant), have already been examined.

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Learned counsel for the petitioner draws the attention of this Court towards the statement of prosecutrix, recorded under Section 164 Cr.P.C., wherein she stated that she had gone along with the petitioner to Naina Devi, of her own free will, and performed marriage with him there. Learned counsel further contends that two applications, moved by the petitioner, for specimen signatures/handwriting and conducting the ossification test of the victim, are still pending adjudication before the trial Court. Learned counsel further submits that there was no mark of injury seen on the person of the victim and that there was no sexual intercourse between the petitioner and the victim. In support of his contentions, learned counsel relies upon the judgments rendered by the Coordinate Benches in 'Nonad Kumar Vs. State of Haryana 2006(4) Law Herald 2826, and 'Gurpreet Singh @ Gora Vs. State of Punjab 2021 (3) Law Herald 2551.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that the petitioner had kidnapped the victim, who was below the age of 16-year at the time of the occurrence, and committed penetrative sexual assault upon her. Learned State counsel further submits that the victim and the complainant, while appearing before the trial Court as prosecution witnesses, have fully supported the case of the prosecution, and that even the FSL report also supports the case of the prosecution.

I have heard the learned counsel for the parties.

Although there are serious allegations against the petitioner, yet the fact remains that the petitioner has been in custody since 12.08.2019 and that two applications, moved by the petitioner, for specimen

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signatures/handwriting and conducting ossification test of the victim, are still pending adjudication before the trial Court.

Trial is unlikely to conclude any time soon. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

09.03.2023

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No