

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

106+213

CRM-M-1960-2022 (O&amp;M)

Date of Decision: 17.05.2023

**Bhappa Singh @ Harsimran Singh****...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Ranjan Lakhanpal, Advocate with  
Mr. Shubhkarman Singh for the petitioner

Ms. Guramrit Kaur, DAG, Punjab  
(assisted by ASI Tajinder Singh)

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**JAGMOHAN BANSAL, J. (ORAL)****CRM-21614-2023**

Application for placing on record Annexures A-1 to A-3 is allowed. The same are taken on record subject to just exceptions. Registry is directed to tag at appropriate place.

CRM stands disposed of.

**CRM-M-1960-2022**

1. The petitioner, through instant petition under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking concession of regular bail in FIR No.0034 dated 15.02.2021 under Sections 376, 452 & 506 of Indian Penal Code, 1860 (for short 'IPC') read with Section 4 of Protection of Children from Sexual Offences Act,

2012 (for short 'POCSO Act') registered at Police Station Tripuri Patiala, District Patiala.

2. The case of the prosecution is that petitioner-accused on 17.01.2021 at about 11:30 AM entered house of complainant where his minor daughter was alone. The petitioner committed rape upon her and threatened her to kill in case she would disclose it to anyone. On 14.02.2021 at about 5:00 PM, the petitioner again threatened the prosecutrix and asked her to accompany.

3. Learned counsel for the petitioner, *inter alia* contends that FIR came to be registered on 15.02.2021 whereas alleged incident took place on 17.01.2021, thus, there was inordinate delay in registration of FIR. The prosecutrix is in love with a boy named Jeewan. She has wrongly implicated the petitioner just to save herself on being caught by her family members. There is no medical evidence. The prosecutrix and complainant have already been examined. The petitioner is in custody since 16.02.2021 and he is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Patiala. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 19.04.2023 is already on record. As per custody certificate, the petitioner is in custody since 16.02.2021 and he is not involved in any other offence.

5. Learned State Counsel submits that police report has already been filed and charges stand framed. She further submits that out of 14 witnesses, 2 have already been examined i.e. prosecutrix and her mother. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

6. In the case in hand, the petitioner is in custody since 16.02.2021 and he is not involved in any other offence. The FIR was registered after one month from the date of alleged incident. There is no medical evidence. The Trial Court yet has to return definite findings on the disputed issues. There are 14 prosecution witnesses and till date only 02 have been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The prosecutrix and her mother stand examined, thus, there is no possibility of winning over or pressurizing them. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed

and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaq/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)  
JUDGE

17.05.2023  
Mohit Kumar

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| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |