

CRM-M-51370-2022(O&M)**-2-**

recorded during the course of investigation, wherein, it was mentioned that she had gone to Jalandhar to meet the petitioner of her own will and thereafter, both of them went to Amritsar and the petitioner had not done anything wrong with her. Although, on 29.04.2022, the victim had made a statement to the effect that she was taken to a room of a hotel where the petitioner developed physical relations with her without her consent but she had refused to get herself medico legally examined. No such version was mentioned by the victim and her mother at the earlier instance. The petitioner is in custody for a period of 01 year, 02 months and 04 days and not involved in any other case. It has been further submitted that even, subsequently, the victim went missing on 12.05.2022 and has not been recovered till date. Even, the trial is getting delayed on account of non-examination of the victim. The matter was never reported at any forum after the victim went missing on 12.05.2022 and no allegation was imputed against the petitioner or his family members.

4. On instructions from ASI Paramjit, learned State counsel submits that the victim was less than 16 years of age at the time of occurrence. It has been further submitted that there is no supporting medical evidence with regard to commission of penetrative sexual assault as the victim had refused to get herself medico legally examined. Even, the statement of the victim under Section 164 Cr.P.C has not been recorded.

5. Learned counsel for the complainant has opposed the bail application on the score that it is suspected that the victim went missing subsequently on 12.05.2022 at the instance of the petitioner and his family members. However, it has not been disputed that the matter was not reported and no action has been initiated against anyone with regard to the incident which took place on

CRM-M-51370-2022(O&M)**-3-**

6. It is significant to note that in the statement of the complainant and the victim, it is emerging that the victim had left the house of her own accord. The petitioner was accompanying her but there is nothing to indicate that the petitioner had exercised any threat, pressure, force or allurement upon the victim when she left the house. There is categoric statement of the victim recorded by the Investigating Agency to the effect that the petitioner had not done anything wrong with her. Even, the victim had refused to get herself medico legally examined. Although, the victim again went missing from the house on 12.05.2022 but till date, there is nothing to indicate that either the petitioner or any of his family member are involved in the said act of the victim. Petitioner is in custody for a period of 01 year, 02 months and 04 days and not involved in any other case. Out of 20, no witness has been examined till date. The conclusion of trial is likely to take sometime. No fruitful purpose will be served by detaining the petitioner in further custody. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner.

7. Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

8. The petition is allowed accordingly.

15.11.2023

*renubala***(VIVEK PURI)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No