

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

**CRM-M-55835-2022
Date of Decision: 16.02.2023**

**AVTAR SINGH @ TARI
V/S
STATE OF PUNJAB**

**... PETITIONER
... RESPONDENT**

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. P.S.Sekhon, Advocate for the petitioner.
Mr. M.S.Nagra, AAG Punjab.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 93 dated 09.05.2019 under Sections 376, 506 IPC, registered at Police Station Raman, District Bathinda.

Custody certificate has been taken on record.

Learned counsel for the petitioner contends that precisely, the allegations against the petitioner are to the effect that he had been committing rape upon the prosecutrix on repeated occasions in her house. The last incident allegedly took place on 10.04.2019 and the FIR has been lodged on 09.05.2019. The medical examination of the prosecutrix has been conducted after a period of 1 month from the last stated occurrence and despite a lapse of one month, spermatozoa has been detected which tends to raise doubt in the genuineness of the version of the prosecutrix. Moreover, the statement of the prosecutrix, who was aged about 20 years at the time of occurrence, has been recorded during the course of trial. The petitioner and the prosecutrix were in relationship and a false case been registered against the petitioner on the pressure of her family. Although, the petitioner is involved in another case under Section 307 IPC but he is on bail in that case.

Learned State counsel has opposed the bail application on the score that the prosecutrix in her statement has levelled specific and categoric allegations of commission of forcible sexual intercourse against the petitioner. It has been further stated that out of 16, 8 witnesses have been examined and 2 witnesses have been given up. The remaining witnesses are official witnesses only.

The prosecutrix was aged more than 18 years of age at the time occurrence. It will be a debatable and moot point during the course of trial as to whether the prosecutrix was a consenting party or not. The statement of the prosecutrix has been recorded in the trial Court. The remaining witnesses are official witnesses. As such, it cannot be said that the petitioner can exercise any influence or win over the witnesses. The petitioner is in custody for a period of 1 year, 3 months and 20 days. The conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

16.02.2023

Janki

(VIVEK PURI)
JUDGE

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