

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

218

CRM-M-56577-2022

Date of Decision: 25.07.2023

Shammi @ Shashi

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Narinder S. Lucky, Advocate for the petitioner.

Mr. Jashanpreet Singh, DAG, Punjab.

NIDHI GUPTA, J. (ORAL)

Prayer in the instant petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No. 83 dated 18.04.2019 registered under Section 365 IPC (Sections 363, 366-A and 367 IPC and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 were added later on and Section 365 IPC was deleted) at Police Station City Phagwara, District Kapurthala.

On 17.03.2023, this Court had passed the following order :-

“The petitioner through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short ‘Cr.P.C.’) is seeking concession of regular bail in FIR No.83 dated 18.04.2019 under Section 365 of Indian Penal Code, 1860 (for short ‘IPC’) [Sections 363, 366-A & 367 of IPC and Sections 3 & 4 of Protection of Children from Sexual Offences Act, 2012 (for short ‘POCSO Act’) added later on and Section 365 IPC deleted later on] registered at Police Station Phagwara, District Kapurthala.

Learned counsel for the petitioner, inter alia contends that petitioner is in custody since 12.07.2020. There was consensual relation between the petitioner and prosecutrix. The prosecutrix in her statement under Section 164 Cr.P.C. did not support case of the prosecution. No injury in the medical record has been found. The prosecutrix stands

examined. The petitioner is not involved in any other offence.

Custody certificate dated 16.03.2023 is taken on record. Registry is directed to tag the same at appropriate place. As per custody certificate, the petitioner has already suffered incarceration of 2 years 8 months and 7 days.

The petitioner at the time of alleged incident was less than 19 years old. The petitioner is not involved in any other offence. There are 17 prosecution witnesses and till date only 9 witnesses have been examined. The petitioner is in custody since 12.07.2020. The conclusion of trial is certainly going to take some time and petitioner in view of peculiar facts and circumstances cannot be kept in further custody.

In view of above backdrop, the petitioner is ordered to be released on interim bail till the next date of hearing subject to furnishing of bail bonds to the satisfaction of Trial Court/Illaq/Duty Magistrate concerned.

Adjourned to 25.07.2023.

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."

Learned State counsel, on instructions from ASI Sunil Kumar submits that out of total 20 prosecution witnesses, 11 have already been examined by the trial Court. He further submits that the petitioner has not misused the interim bail already granted to him by this Court vide aforesaid order.

In view of the above and keeping in view the facts and circumstances of the case, but without commenting on the merits, the present petition is allowed. Petitioner-Shammi @ Shashi, is admitted to regular bail, subject to his furnishing fresh bail/surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

25.07.2023

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**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No