

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

102+206

CRM-M-56730 of 2022 (O&M)
Date of decision:15.05.2023

Jaswinder Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Ms. Riffi Bala Birla, Advocate
for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

SUVIR SEHGAL, J. (Oral)

CRM No.18015 of 2023

Application is allowed as prayed for.

Testimonies of the material witnesses are taken on record as
Annexures P-3 and P-4.

CRM-M-56730 of 2022

1. This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”) seeking grant of regular bail to the petitioner in case bearing FIR (Annexure P-1):-

FIR No.	Dated	Police Station	Sections
56	11.05.2021	Khuian Sarwar, District Fazilka	376, 506 IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short “the POCSO Act”)

2. Version of the prosecution is that FIR (Annexure P-1) has been

registered on the statement of mother of a 15 ½ year old girl (hereinafter referred to as “the prosecutrix”), wherein, she has stated that her daughter used to remain upset and even on her repeatedly asking, she did not disclose the reason. On 11.05.2021, she encouraged her to speak up and she finally disclosed that Jaswinder Singh, present petitioner, who is her maternal uncle, has been sexually assaulting her for the last four months whenever she was alone at home. He threatened her that in case she confided in anyone, her family will be eliminated.

3. Counsel for the petitioner has argued that there is an unexplained delay in registration of the FIR and the petitioner has been falsely implicated. She submits that the prosecutrix was having an affair and the petitioner was arraigned as an accused in order to save the boy, who used to frequent her house. She submits that the material prosecution witnesses have been examined and there is no possibility that the petitioner will influence them or the trial. She asserts that the petitioner, who has clean antecedents, deserves to be freed from detention.

4. On the other hand, State counsel, upon instructions from ASI Gurmeet Singh, has opposed the petition and submits that the petitioner is accused of sexually exploiting a young innocent girl. He has referred to the statement of the prosecutrix recorded under Section 164 of the Code as well as her testimony, ocular and documentary evidence led before the Trial Court. As per his instructions, 14 out of 18 prosecution witnesses have been examined.

5. I have considered the respective submissions of counsel for the parties.
6. Petitioner is accused of serious allegations which have been supported by the prosecutrix in her statement recorded before the Magistrate as well as in her testimony. Petitioner has taken advantage of his relationship with the prosecutrix and misused a recording of her objectionable video to intimidate her. Both the complainant and the prosecutrix have stood firm on their version despite being extensively cross-examined. Medical evidence led before the Trial Court also supports the version of the prosecution. Trial is at an advanced stage as formal witnesses remain to be examined.
7. Keeping in view the above facts, this Court is not inclined to accede to the prayer made in the petition. Petition is dismissed.
8. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

May 15, 2023
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No