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2023 : PHHC : 149173

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58206-2023

Date of Decision: 23.11.2023

GURMUKH SINGH

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Ms. Kanwal S. Walia, Advocate for the petitioner.

Ms. Ruchika Sabherwal, DAG Punjab.

* * *

VIVEK PURI, J. (ORAL)

1. The petitioner is seeking regular bail in case bearing FIR No. 06 dated 23.01.2023 under Sections 376-D/506/34 IPC, 1860 and Sections 4, 6 of POCSO Act, registered at Police Station City Ahmedgarh, District Malerkotla
2. Custody certificate has been taken on record.
3. Briefly, the FIR has been registered on the allegations that the victim is aged about 17 years. On 22.01.2023, the petitioner alongwith the co-accused, namely, Khushdeep Singh had kidnapped the victim. She was taken inside the bushes behind Gurdwara Damdama Sahib, Jandali. The co-accused had held the victim from her arms and the petitioner had committed rape upon her.
4. Learned counsel for the petitioner contends that during the course of trial, the victim as well as her mother have not supported the prosecution version. The co-accused Khushdeep Singh has been granted regular bail in terms of the order dated 06.11.2023 passed in CRM-M-

47818-2023. Moreover, as per the report of FSL, no spermatozoa has been detected.

5. Learned State counsel has not disputed the fact that the victim and her mother have not supported the prosecution version and as per the report of FSL, no spermatozoa has been detected. It has been submitted that out of 12, 05 witnesses have been examined.

6. It is significant to note that during the course of trial, the victim and her mother have not supported the prosecution version. The victim had specifically and categorically stated that the petitioner and the co-accused never kidnapped her nor any wrongful sexual act was committed upon her. Even, as per the report of FSL, no spermatozoa has been detected. The petitioner is in custody for a period of 10 months and 01 day and not involved in any other case. Out of 12, 05 witnesses have been examined. The conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

7. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. 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.

8. The petition is allowed.

23.11.2023

Janki

**(VIVEK PURI)
JUDGE**

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