



**CRM-15848-2024 in/&
CRM-M-5731-2024 (O&M)**

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

**CRM-15848-2024 in/&
CRM-M-5731-2024 (O&M)
DATE OF DECISION : 02.08.2024**

PAWAN KUMAR

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Vaneet Thakur, Advocate for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

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HARPREET KAUR JEEWAN, J. (ORAL)

CRM-15848-2024

1. This is an application for placing on record order dated 03.07.2023 passed by the learned Addl. Sessions Judge, Patiala as Annexure P-7. The same is allowed to be taken on record.

2. Registry is directed to tag the same at the appropriate place.

3. Disposed of.

CRM-19756-2024

4. This is an application for placing on record the documents, Annexures P-8 to P-10. The same are allowed to be taken on record, subject to all just exceptions.



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5. Registry is directed to tag the same at the appropriate place.

6. Disposed of.

CRM-26716-2024

7. This is an application for amendment of the head note and prayer clause of the petition.

8. It has been submitted that the offence under Section 4 of Protection of Children from Sexual Offences Act has been added later on and the same has been sought to be incorporated in the petition.

9. The amended head note and prayer clause is allowed to be taken on record.

10. Registry is directed to tag the same at the appropriate place.

11. Disposed of.

CRM-29641-2024

12. This is an application for placing on record the Examination-in-Chief along with cross-examination of the prosecutrix as Annexure P-11. The same is allowed to be taken on record, subject to all just exceptions.

13. Registry is directed to tag the same at the appropriate place.

14. Disposed of.

Main case

15. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner in case bearing FIR No. 59 dated 06.08.2022 under Sections 363, 354, 506, 509 IPC and Section 12 of Protection of Children from Sexual Offences Act



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(458 IPC added later on) (charges framed under Section 509, 458, 363, 506 IPC and Section 8 of Protection of Children from Sexual Offences Act) and Section 376 IPC (added vide amended charge later on) registered at Police Station Sadar Rajpura, District Patiala.

16. Custody certificate dated 08.07.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the petitioner is in custody since 09.08.2022.

17. Learned counsel for the petitioner contends that the FIR was registered on 06.08.2022 regarding the alleged incident dated 05.08.2022 and there are no allegation of rape against the petitioner in the FIR. Even in the statement recorded under Section 164 Cr.P.C., the prosecutrix has not levelled any allegations of sexual assault upon the petitioner. However, subsequently when she appeared during the trial as PW1, the prosecutrix has made improvement in her version and for the first time on 26.04.2024 introduced the allegations of sexual assault. The statement of the prosecutrix has been recorded. There is no medical evidence against the petitioner.

18. Learned State counsel, referring to the status report dated 08.07.2024 by way of affidavit of Yogesh Kumar, PPS, Superintendent of Police Investigation, Patiala, District Patiala, confirmed that initially the report under Section 173(2) Cr.P.C. was submitted before the trial Court under Section 363, 354, 458, 506 and 509 IPC and Section 12 of Protection of Children from Sexual Offences Act and the charges were framed.



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However, on the basis of the statement of the prosecutrix, the offence under Section 376 IPC was enhanced later on and amended charges were framed by the trial Court on 20.02.2024.

19. Learned counsel for the petitioner further contends that the petitioner is being falsely implicated due to enmity between Txxx who is sister-in-law (wife of the brother of the petitioner) and she has got registered an FIR No. 178 dated 08.06.2022 under Sections 376, 506, 120-B IPC, registered at Police Station Barara, District Ambala (Annexure P-2) against Sohan Lal, who is a relative of the prosecutrix.

20. I have considered the aforesaid contentions and perused the paper book.

21. The investigation is complete and final report/challan under Section 173 Cr.P.C. has been presented before the trial Court. The statement of the prosecutrix has already been recorded. As such, there is no apprehension of tampering with the prosecution evidence. Even the medical evidence has been obtained. As per the report of Central Forensic Science Laboratory (Annexure P-5), presence of semen is not confirmed in the samples of the victim. The allegations and counter-allegations are a matter of trial. Out of 22, 2 witnesses have been examined. Petitioner is in custody since 09.08.2022. The conclusion of trial is going to take time.

22. In view of the above, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing



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Court concerned.

23. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

24. Pending miscellaneous application(s), if any, shall stand disposed of.

02.08.2024

Janki

**(HARPREET KAUR JEEWAN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No