

Sr. No.217

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-13061-2023  
Date of decision: 26<sup>th</sup> April, 2024

MANISH KUMAR .....Petitioner

versus

STATE OF PUNJAB .....Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Umesh Aggarwal, Advocate  
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

HARPREET KAUR JEEWAN, J.

1. 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.127 dated 16.10.2022, under Section 376-DB of IPC, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Mohkampura, Amritsar (Annexure P-1).
2. The FIR was registered at the instance of the mother of the prosecutrix with the allegations that the victim, who is 08 years' old and a student of Class III, used to be physically assaulted by the petitioner and his co-accused, who are residing along with their parents as tenants on the first floor of their house. On 15.10.2022, the victim told her mother that in her absence, both the petitioner and his co-accused used to take the victim on the upper floor and commit wrong act with her and she used to feel a lot of pain.
3. Learned counsel for the petitioner contends that the petitioner is in long custody. Challan has already been presented. Statement of all the material witnesses have been recorded but they have not supported the case of the prosecution.

4. Learned State counsel has submitted custody certificate dated 25.04.2024, reflecting the period of custody of the petitioner as 01 year, 06 months and 10 days. Copy of Forensic DNA Report dated 26.07.2023, received from the Forensic Science Laboratory, Phase-IV, SAS Nagar, has also been submitted in the Court, which is taken on record.
5. I have considered the aforesaid contentions and perused the paper book.
6. The prosecutrix has been examined as PW-2 during trial, mother of the prosecutrix appeared as PW-3 and sister of the prosecutrix is PW-4 (Annexure P-3). None of them has supported the prosecution case. As per the Forensic DNA Report dated 26.07.2023, issued by the Director, Forensic Science Laboratory, Punjab, S.A.S. Nagar, no male DNA was detected on the vaginal and anal swabs of the prosecutrix.
7. The petitioner is in custody during the trial for the last more than 01 year 06 months and 10 days. There is no history of any other case pending against the petitioner. Conclusion of trial is likely to take some time. No doubt, the allegations levelled against the petitioner are serious in nature, however, keeping in view the aforesaid circumstances and the custody of the petitioner, the present petition is allowed.
8. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.
9. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on the merits of the case.
10. Pending miscellaneous application(s), if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)  
JUDGE

26<sup>th</sup> April, 2024

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2024.05.01 18:24  
I attest to the accuracy and  
integrity of this order/judgment.

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No