



CRM-M-16411-2024 (O&M)

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

225

CRM-M-16411-2024 (O&M)

Date of decision: 17.07.2024

JASWANT SINGH @ LOVELY**...Petitioner****Versus****STATE OF PUNJAB****...Respondent****CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. G.V.S. Behl, Advocate
for the petitioner.

HARPREET KAUR JEEWAN, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.70 dated 25.10.2023 (Annexure P-1) under Section 376 IPC and Section 6 of the POCSO Act, 2012 registered at Police Station Sandaur, District Malerkotla.

2. Notice of motion.

3. On the asking of the Court, Ms. Sakshi Bakshi, AAG, Punjab accepts notice on behalf of the respondent-State.

4. Custody certificate dated 16.07.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the petitioner has undergone 08 months and 19 days of actual custody.

5. As per the prosecution case, the FIR was registered at the instance of the father of the prosecutrix with the allegations that the petitioner committed



penetrative sexual assault upon the prosecutrix, who was about 15 years of age at the time of the alleged occurrence.

6. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case and that he is in custody since 25.10.2023. He further contends that statements of the material witnesses i.e parents of the victim have been recorded and they have not supported the prosecution case. There are various contradictions in the statement of the victim recorded before the trial Court (Annexure P-9). The case has been registered on account of a family dispute. The prosecutrix at the relevant point of time was living with the *taya* (uncle) of the petitioner and petitioner is a close relative of the prosecutrix. He submits that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. The petitioner is ready to face trial. He further submits that the trial is going to take time to conclude, as such, prayer for releasing the petitioner on bail has been made.

7. On the other hand, learned State counsel has opposed the bail petition on the ground of gravity of allegations against the petitioner. He has informed that the prosecutrix has refused to undergo medical examination, which is reflected in an application dated 25.10.2023 duly submitted by the Investigating Officer. Copy of the same has been submitted in the Court today, which is taken on record. He has further informed that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. As per the custody certificate, there is no history of other cases against the petitioner.

8. I have considered the aforesaid contentions and perused the paper-book.

9. Investigation is complete and the final report under Section 173 of the

Code of Criminal Procedure has been presented before the trial Court. As per the custody certificate, there is no history of other cases against the petitioner. Statements of the material witnesses i.e. parents of the victim have been recorded (Annexures P-7 and P-8) and they have turned hostile and did not support the prosecution case. There is no medical evidence against the petitioner. The petitioner is in custody for 08 months and 19 days and trial will take some time to conclude.

10. In view of the above, the petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

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

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

(HARPREET KAUR JEEWAN)
JUDGE

17.07.2024
P.Bhatt

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