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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40804-2024 (O&M)
Date of decision : 30.08.2024

Manjinder Singh @ Bittu

.....Petitioner

versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Samay Sandhawalia, Advocate
for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

CRM-33376-2024

Application is allowed as prayed for.

Main case

1. Petitioner has approached this Court by way of present third petition praying for granting him regular bail in case FIR No.28 dated 05.02.2020, under Sections 354-A, 354 of IPC; Section 8 of POCSO Act; Sections 384, 120-B, 376, 506 of IPC; Sections 6, 12, 14, 15, 16 of POCSO Act and Section 77 of Juvenile Justice Act, registered at Police Station Ropar City.

2. As per facts of the case, the present FIR was lodged by the Child Welfare Committee, Rupnagar wherein the prosecutrix (name concealed) had alleged that she was studying in Sahibzada Ajit Singh Academy three years ago and was residing in the house of landlord Paramjit Singh. His son Jatinder Singh had tried to commit forcible



objectionable act with her. Thereafter, Madam Supriya where she used to study had exploited her along with co-accused and her objectionable videos were made thus, she was sexually exploited. Prayer was made to take legal action against the culprits. The prosecutrix being minor, FIR was registered for the offence under the IPC and POCSO Act. On registration of the FIR, investigation commenced. Petitioner was arrested on 06.02.2020. Petitioner had approached the Court of learned Additional Sessions Judge, Rupnagar praying for grant of bail. However, after hearing counsel for the parties, the same was declined by the learned Additional Sessions Judge, Rupnagar vide her order dated 04.05.2020. Being aggrieved, earlier petitioner approached this Court twice by way of filing the petitions. However, one petition was dismissed as withdrawn and the second petition was dismissed on merits vide order dated 28.01.2022. Hence, this is the third petition filed by the petitioner.

3. Learned counsel for the petitioner has vehemently contended precisely on the issue that the petitioner has not been chargesheeted by the trial Court for the offence under Section 376 IPC, rather the petitioner is being prosecuted for the offence under Sections 12, 14, 15 of POCSO Act; Section 77 of Juvenile Justice Act and Sections 384, 506, 120-B of IPC. He thus, submits that even if it is assumed that the charges for which the petitioner is being prosecuted are proved then also, the maximum sentence awarded for the said offences would be 05 years. However, during the trial itself, petitioner has completed about 4½ years of sentence and till date, he is facing the incarceration. He submits that the speedy trial is the fundamental right of the every accused *dehors* the gravity of the offence and the same has been miserably defeated in the present case. He submits



that the main accused i.e. co-accused Supriya who had allegedly exploited the prosecutrix had already been granted anticipatory bail. He further submits that 03 co-accused are on bail. He thus, submits that in the facts and circumstances of the case, petitioner deserves to be granted regular bail.

4. Per contra, learned counsel for the State has opposed the submissions made by counsel for the petitioner. He submits that there are specific allegations against the petitioner regarding the offence committed against the minor prosecutrix. However, on instructions from ASI Narinder Paul, he has submitted that petitioner has not been charged for the offence under Section 376 IPC and for the offences he has been charged, the maximum sentence is 05 years. He has placed on record custody certificate which would show that petitioner has completed more than 4½ years of sentence. He submits that in all there are 21 prosecution witnesses, out of which, 06 witnesses have been examined and 05 witnesses have been given up and 10 witnesses remained to be examined.

5. Heard. On hearing counsel for the parties and perusing the record, it is apparant that petitioner is behind bars since 06.02.2020. As submitted before this Court, petitioner has been charged for the offence under Sections 12, 14, 15 of POCSO Act; Section 77 of Juvenile Justice Act and Sections 384, 506, 120-B of IPC. The custody certificate produced would show that petitioner has completed the incarceration of 04 years 06 months and 19 days as on 29.08.2024. It further reflects that petitioner is not involved in any other case. Three of the co-accused are already on bail. There is no denial to the fact that speedy trial is the right of every accused.



6. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

30.08.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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