

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

**CRM-14445-2024 in/and
CRM-M-46372-2023
Date of decision : 08.04.2024**

Manpreet Singh @ ManiPetitioner

versus

State of Punjab Respondent

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Kamal Chaudhary, Advocate
for the petitioner.

Mr. Navneet Singh, Senior DAG, Punjab.

RAJESH BHARDWAJ, J.
CRM-14445-2024

As per office report, next date in the present application has been inadvertently written as 17.08.2024 but actually the next date in the case is 13.08.2024.

Learned counsel for the petitioner has stated that the mistake is clerical in nature and the next date mentioned in the application be read as 13.08.2024 in place of 17.08.2024. Prayer is allowed.

Prayer in the present application is for preponement of the date of hearing in the main case.

Heard. For the reasons mentioned in the application, main case is taken up on board for today itself. Application stands allowed.

Main case

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.133 dated 24.08.2022, under Sections 363, 366, 376 of IPC and Section 4 of POCSO Act at Police Station Sirhind, Fatehgarh Sahib, Punjab.

Adumbrated facts of the case are that the complainant made his statement before the Police wherein it was alleged that he was married 18 years ago and had two sons and one daughter (name concealed) who was about 15 years of age. His daughter i.e. the victim was the student of 10th standard. On 22.08.2022, he went to Phillaur whereas, his daughter had gone to the school. At about 09:00 PM, his mother called him and informed that his daughter i.e. the victim was not at home. He came home and despite his best efforts, failed to search his daughter. On the next day i.e. on 23.08.2022, his sister called him and informed about the presence of his daughter at her home. She was brought back to home where she told that Mani @ Manna (petitioner) allured her on pretext of marriage. On 22.08.2022 in the night at about 10 O'clock, he indulged in a sexual relations with her without her consent. Thereafter, she was left at his sister-in-laws house. Request was made to take legal action against the culprit Mani @ Manna for having committed offence against his minor daughter. On the basis of the statement, the FIR was registered and investigation commenced. The statement of the witnesses were recorded under section 161 Cr.P.C. The victim-prosecutrix was medico legally examined and her statement was recorded under Section 164 Cr.P.C. on 25.08.2022. The efforts were made to arrest the petitioner. However, as he was avoiding his arrest, the proceedings under Sections 82/83 Cr.P.C. were initiated and thus, he was declared proclaimed offender vide order dated 14.02.2023. Thereafter, the petitioner was arrested on 28.04.2023. The DNA samples were obtained and on completion of the investigation, challan was presented. Petitioner approached the learned Special Court by way of filing the petition under Section 439 Cr.P.C. praying for grant of bail. Learned Special Court on hearing found no merit in the petition filed and thus, dismissed the same vide its order dated 31.08.2023.

Hence, the petitioner approached this Court by way of filing the present

petition.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. As per the case of the prosecution, the alleged incident had taken place on 22.08.2022 whereas the FIR has been registered on 24.08.2022 with an unexplained delay of two days. It is submitted that the version of the prosecution is not medically corroborated as the medical has been conducted on 25.08.2022 and hence, no authenticity is attached to the medical report produced. He has submitted that the statement of the prosecutrix was recorded by learned JMIC on 25.08.2022 wherein the prosecutrix deposed that she voluntarily left her home on 22.08.2022 and then she called the petitioner. She deposed that she went to the room of the petitioner with her own consent. He has submitted that it is evident that the prosecutrix had gone with the petitioner with her own consent. It is submitted at the most that it is the case of consent between the petitioner and the prosecutrix whereas the FIR was lodged against the petitioner by her family members due to misunderstanding. He submits that the petitioner is behind bars since 28.04.2023 and the investigation is complete. He has submitted that the material witnesses have been examined and they have not supported the case of the prosecution. He has submitted that there is no material progress in the trial and thus, in the facts and circumstances of the case, petitioner deserves to be granted bail.

Per contra, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that as per the evidence collected, the prosecutrix in the present case is 15 years of age and thus, a minor. He has submitted that the consent of the minor has no legal sanctity. It is submitted that the ocular version is medically corroborated. He has submitted that as the petitioner could not be arrested earlier, hence, he was declared a proclaimed offender and thereafter, he was

arrested. He submits that petitioner is involved in two more cases as is evident from the custody certificate produced. He submits that in all there are 32 prosecution witnesses, out of which, 07 witnesses have been examined. He submits that though the material witnesses have not supported the case of the prosecution still majority of the prosecution witnesses remains to be examined and as per evidence on record, the case of the prosecution is duly substantiated.

Heard. On hearing counsel for the parties and perusing the record, it is apparent that the victim in the present case is 15 years of age and thus, a minor. There were specific allegations of sexually abusing the victim without her consent. Petitioner on being named in the FIR was arrayed as an accused however, as he could not be arrested, he was declared Proclaimed Offender. On his arrest the challan was presented. The statement of the prosecutrix was recorded under Section 164 Cr.P.C. On framing of the charge, statement of the material witnesses are also recorded by the trial Court wherein they have not supported the case of the prosecution. However, out of 32 prosecution witnesses, only 07 witnesses have been examined so far and the custody certificate produced would show that the petitioner is involved in two more cases i.e. FIR No.186/2021 dated 30.08.2021, under Sections 379, 411 of IPC, another FIR No.213/2021 dated 23.09.2021, under Sections 379, 411 of IPC. Thus, in the overall facts and circumstances of the case, this Court does not find it appropriate to grant bail to the petitioner at this stage and the petition being devoid of any merits is hereby dismissed.

08.04.2024
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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