



CRM-M-47391-2024

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(230)

CRM-M-47391-2024
Date of Decision : 12.12.2024

Rajesh Kumar @ Tota ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Davinder Singh, Advocate
for the petitioner.

Ms. Avneet, AAG, Punjab.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition filed under Section 483 of BNSS, 2023, the petitioner prays for grant of regular bail in case FIR No.75 dated 22.04.2024 (Annexure P-1), under Section 377 of the IPC, 1860, and under Section 6 of POCSO Act, registered at Police Station City Rupnagar, District Rupnagar.

2. The prosecution agency was set into motion, on a complaint made by one, Kamalpreet Kaur, wherein, she alleged that the present petitioner has committed the carnal intercourse with his minor son "X", aged 10 years. The relevant extract of the complaint, is reads as under :-

"Copy of complaint. Compliant Dasti No. 469 dated 21.04.2024, Police Station City Rupnagar. To, SHO, Police Station City Rupnagar. Subject: Rajesh Kumar son of Lekh Ram, resident of Badi Haveli, committed the Carnal intercourse with my son Vinay aged about 10 years. Sir, it is requested that I Kamalpreet Kaur wife of



Pardeep Singh, resident of House No. 66, Gali No. 3, Satluj Colony, Badi Haveli Rupnagar, Tehsil and District Rupnagar. That I am doing job in Center Bari Haveli Aangan Barri. Today, on 21.04.2024, at about 07.30 PM, I was doing household chores in my kitchen. Then our tenant Rajesh Kumar son of Lekh Ram called my son in his room, on which my son Viney Preet Saini after parking his bicycle went to him, on which Rajesh Kumar picked him and took him inside the room and started committing carnal intercourse with my son. My son made shrieks. On hearing shrieks of my son, I ran towards the room and I saw that said person committing carnal intercourse with my son and I told him that what are you doing. On which after seeing he fled away from the spot. Given information to you. Legal action should be taken against them. Sd/ Kamalpreet Kaur 98770-75745, dated 21.04.2024”

3. On asking for the relief (supra), learned counsel for the petitioner submits that the present petitioner has been falsely implicated in the instant FIR, because of the dispute between the parents of the minor and the present petitioner, and on the said account, the petitioner is being dragged in the FIR (supra). Furthermore, the present petitioner is also the tenant of the complainant. He further draws attentions of this Court, towards the MLR of the minor-victim, wherein, in the column of history/assault history, it is mentioned as “an attempt to sexual assault”, to submit that at the best, the allegations may be that the present petitioner made an attempt to commit the sexual assault, upon the victim. In addition, he submits that the present petitioner has suffered incarceration of about 08 months, as on date, and the material witnesses, i.e. the complainant and the victim, has already been examined, before the learned trial Court concerned, and therefore, there is no



chance of tampering with the prosecution evidence, in case, the petitioner is extended the relief of regular bail.

4. On the other hand, learned State counsel, on instructions received from the quarter concerned, has opposed the relief of regular bail to the petitioner, and submits that the age of the victim was only 10 years, at the time of occurrence, and the petitioner was caught red handed by the complainant. She further informs this Court, after having information from the quarter concerned, that in the instant FIR, out of total 14 prosecution witnesses, as cited in the final report, 03 witnesses have been examined, 06 witnesses have been given up, and 05 witnesses are remaining for examination. She finally submits that the complainant and the victim, already stands examined.

5. Learned State counsel has also placed on record the custody certificate dated 11.12.2024, qua the petitioner, today in the Court. The same is taken on the record.

6. This Court has heard the rival submission, as made by the learned counsel for the parties concerned, and is of the view that the instant petition is amenable to be allowed.

7. Be that as it may, without observing anything on the merits of the case; considering the facts and circumstances of the case; the period of incarceration suffered by the present petitioner; the stage of trial; and the fact that the petitioner is not previously involved in any other case, this Court deems it appropriate to enlarge the present petitioner on regular bail. Accordingly, the instant petition is **allowed**.

8. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/trial Court/Duty Magistrate, concerned.
9. However, anything observed hereinabove shall have no effect on the merits of the case and is meant for deciding the present petition only.

(KULDEEP TIWARI)
JUDGE

December 12, 2024
Manpreet

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