

**CRM-M-53042-2024 (O&M)****1****206 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-53042-2024 (O&M)****Date of decision: 29.10.2024****VEER PARKASH @ BHIM****...PETITIONER****V/S****STATE OF HARYANA****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

**********HARPREET SINGH BRAR J. (ORAL)**

1. The petitioner is seeking grant of regular bail in case bearing FIR No. 258 dated 12.07.2022 registered under Sections 363, 366, 376(2)(n), 506 of Indian Penal Code and Section 6 of Protection of Children from Sexual Offences Act, 2012 at Police Station Nissing, District Karnal.

2. Prosecution case is that on 12.07.2022, complainant 'S' (name withheld and to be referred to as 'S' or complainant/mother of victim hereinafter) presented a complaint in the police station to the effect that date of birth of her daughter 'P' (name withheld and to be referred to as victim or 'P' hereinafter) is 01.01.2005. In the night, at around 12.30 a.m., 'P' had gone to urinate. Their bathroom is situated at some distance. Bhim (petitioner herein) dragged 'P' to his house. Till the time, she tried to rescue 'P', Bhim had committed rape upon her daughter. Earlier also, he had forcibly established physical relation with 'P' several times. He had threatened 'P', due to which she did not disclose it to anyone. But today, 'P' told her. Bhim Singh had also extended threatening to kill her and her family members. A prayer was made



for taking legal action against accused. On the basis of aforesaid allegations, FIR(supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case and victim-prosecutrix has already been examined and as such, there is no possibility of influencing the material witnesses and petitioner is behind the bars since 15.07.2022 and delay in conclusion of trial cannot be attributed to the petitioner as he is in judicial custody and such a long custody has suffocated the fundamental rights of the petitioner enshrined under Article 21 of Constitution of India, which ensures speedy trial. Further, at the time of her deposition before the learned trial Court, the victim-prosecutrix has not fully supported the case of the prosecution with regard to previous incident alleged by her in her initial complaint and as such the contradiction creates serious doubt in the case set up by the prosecution as well as upon the credibility of the witnesses.

4. Per contra, learned State counsel filed the custody certificate, which is taken on record and opposes the prayer made by learned counsel for the petitioner on the ground that the *semen* was detected on the clothes of the prosecutrix and DNA sample also matched and the same was found to be of the petitioner and petitioner is also involved in two more cases. However, he could not controvert the fact that petitioner is behind the bars since 15.07.2022.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is behind the bars since 15.07.2022 i.e. for 02 years 03 months and 12 days as on 26.10.2024. Out of total 14 prosecution witnesses, only 01 has been examined so far, thus, conclusion of trial will take sufficient long time to conclude. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the

near future, would be violative of Article 21 of the Constitution of India.
Culpability, if any, would be determined at the time of the trial.

6. In view of the ratio of law laid down by Hon’ble Supreme Court in *Prabhakar Tiwari Vs. State of UP and Anr.* 2020(1) RCR (Criminal) 831 and *Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others* 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

7. In view of the above, the present petition is allowed and the petitioner-Veer Parkash @ Bhim is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

October 29, 2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No