



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M-56247-2024(O&M)

Date of Decision: 18.11.2024

Sukhwinder Singh @ Sonu

....Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Veneet Sharma, Advocate for the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 483 of The Bharatiya Nagarik Suraksha Sanhita for grant of regular bail in case FIR No. 85 dated 13.04.2024 under Sections 376 IPC, Section 6 of POCSO Act, 2012 and the offences under Section 450 IPC and Section 4 of POCSO Act 2012 (Added later on) registered at Police Station Gharinda, Amritsar Rural, District Amritsar (Annexure P-1).

Learned counsel for the petitioner *inter alia* submits that the present FIR (Annexure P-1) has been registered on the basis of the statement made by the prosecutrix herself, relevant part of which reads as under:-

“Statement of XXXX D/O XXXX R/o Village Khaparkheri, P.S. Gharinda, District Amritsar, age about 14 years M.No.XXXXXXXX.

xxxxxxxxxxxx On 12-04-2024 at about 11:00 AM I have gone at the some distance from my house for buying vegetables at the shop of Lakhbir Singh Sarpanch at his shop Sonu son of



Swaran Singh resident of our village was selling vegetables at his shop. I asked for vegetable from him and on that pretext he took me inside the vegetable shop where he did wrong at with me against my wishes.....”

Learned counsel for the petitioner submits that the allegations against the petitioner are false and fabricated. It is contended that there is no medical evidence to incriminate the petitioner. In fact, the victim has refused to undergo medical examination. As such, the petitioner has been falsely implicated in the present FIR. Moreover, there is a delay of 1 day in registration of FIR as the date of incident as per the prosecutrix is 12.04.2024, however FIR has been registered on 13.04.2024. It is further submitted that the victim in her testimony as PW1, grandmother of the victim in her testimony as PW2, and cousin brother of the victim as PW3 have not supported the prosecution case as is evident from their testimonies (Annexures P-2 to P-4 respectively).

Learned counsel for the petitioner further submits that the petitioner has been in custody since 16.04.2024 as undertrial. No useful purpose would be served by further detention of the petitioner in custody. Thus, it is prayed that the present petition may be allowed, and the petitioner be released on regular bail.

Learned counsel for the State opposes prayer made on behalf of the petitioner; and on instructions from ASI Bhupinder Kaur, informs that date of birth of the victim in the present case is 10.11.2010. As such on the date of incident i.e. 12.04.2024, the victim was less than 14 years of age, whereas the petitioner was more than 24 years of age. It is



submitted that the victim in her statement under Section 164 Cr.P.C. has supported the prosecution case. It is, however, admitted that the victim in her testimony as PW1 has not supported the prosecution case. It is further admitted that the victim had refused to get herself medically examined.

Learned counsel for the State further informs that there are 19 witnesses in the present case, out of which only 3 witnesses i.e. the victim, grandmother and cousin brother of the victim, have been examined so far.

Learned counsel for the State files custody certificate dated 16.11.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 7 months. It is pointed out that as per the said custody certificate, there is another case i.e. FIR No. 01 dated 01.01.2022 under Section 61/1/14 EX Act registered at Police Station Gharinda, Amritsar is also pending against the petitioner.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case including the fact that: a) the custody period of 7 months undergone by the petitioner as an undertrial; b) material witnesses i.e. the victim, grandmother and cousin brother of the victim stand examined; c) out of total 19 witnesses, 3 witnesses have been examined so far; and d) therefore, the conclusion of trial will take considerable time and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.



The petitioner- Sukhwinder Singh @ Sonu S/o Sawaran Singh, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

Pending application, if any, stands disposed of.

18.11.2024

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No