

CRM-6911-2024 in/and
CRM-M-60912-2023 **-1-** **2024:PHHC:028262**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

213 CRM-6911-2024 in/and
CRM-M-60912-2023

Date of Decision: 28.02.2024

Manpreet Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. A.S. Sekhon, Advocate for the applicant-petitioner.

 Mr. Kunwarbir Singh, AAG, Punjab.

NIDHI GUPTA, J. (ORAL)

CRM-6911-2024

Application is allowed, as prayed for.

Photocopies of certified copies of statements of PW-1 dated 30.09.2022/06.01.2024; PW-2 dated 14.09.2023/09.11.2023; PW-3 dated 09.11.2023; PW-4 dated 03.02.2024; and PW-5 dated 03.02.2024 filed along with the application are taken on record as Annexures P-12 to P-16, subject to all just exceptions.

CRM-M-60912-2023

The petitioner has filed the present 2nd petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 62 dated 05.08.2020 registered under Section 363/366-A IPC at Police Station Sadiq, District Faridkot, charge under Section 376 IPC read with Section 4 of the Protection of Children from Sexual

Offences Act, 2012 (for short- 'the POCSO Act') was added later by the learned trial Court vide order dated 10.08.2023 (Annexure P-2).

The aforesaid FIR was registered on the basis of statement of father of the victim, which is reproduced as under:-

“Statement of Gursewak Singh son of Sukhdev Singh son of Dalip Singh Resident of Village Marar aged about 42 years M.No.94179-65310. Stated that I am resident of above said address and is doing labour work. I have three children, two daughters namely xxxx aged about 15 years 08 months and younger to her Jasleen Kaur and younger to her is Akashdeep Singh. My daughter xxxx was studying in 10+2 class at Govt. Girls Senior Secondary School, Sadiq and Manpreet Singh son of Channa Singh Resident of Marar was chasing my daughter and teased her. My daughter disclosed about the said incident to me. I also complained the said matter in the house of Manpreet Singh but Manpreet Singh remained adamant. On 04.08.2020, I was present in my house, then Manpreet Singh son of Channa Singh, Pinda Singh son of Nachattar Singh and Kuldeep Singh son of Binder Singh Residents of Marrar came in the ALTO Car bearing No. PB04T-4034 belonging to Jaskaran Singh, member panchayat of our village and were roaming in front of my house and my wife Harjinder Kaur went on duty at Thread Mill, village Lubhaya Wali and remaining family members were sleeping after taking meal, then at about 11.30 P.M, I heard a noise of my daughter xxxx, then I quickly reached in front of gate of my house and saw that Manpreet Singh was sitting my daughter xxxx in car forcibly and at that time Pinda Singh and Kuldeep Singh were also accompanying him. On raising raula by me, my neighbour Jagmohan Singh son of Kindar Singh Resident of Marrar came at the spot. We tried to stop the car but Manpreet Singh in connivance Pinda Singh and Kuldeep Singh enticed away my daughter, on the pretext of marriage. Uptill today we searched my daughter at our own, but she did not met us. Today I alongwith Jagmohan Singh above said are on the way to give the information to police station, but you me with us, so I have recorded my statement to you, which is heard and is correct. As such, action be taken against them.”

Learned counsel for the petitioner, *inter alia*, submits that it has been admitted by the victim in her statement (Annexure P-6) recorded under Section 164 Cr.P.C., that the petitioner was known to her

since 02 years prior to the incident. She had also admitted that on the date of occurrence i.e. 04.08.2020 she had willingly gone with the petitioner. It is submitted that even as per the MLR, no injuries have been found on the person of the vicim. It is pointed out by learned counsel that earlier the petitioner was granted the concession of regular bail by a co-ordinate Bench of this Court vide order dated 14.01.2021 (Annexure P-4). However, vide order dated 10.08.2023 (Annexure P-2) the learned trial Court had amended the charges, and offences under Section 376 IPC and Section 4 of the POCSO Act, have been added; whereafter, the petitioner was once again taken into custody on 10.08.2023. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner may be released on regular bail.

Learned counsel for the State has filed custody certificate dated 27.02.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 11 months and 27 days. Perusal of custody certificate reveals that there is no other case against the petitioner.

Learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and submits that at the time of incident, the victim was only 15 years and 08 months old. As per the MLR (Annexure P-5), it has been reported that possibility of sexual intercourse cannot be ruled out. It is further submitted that the learned trial Court while rejecting the bail to the petitioner vide impugned order dated 10.08.2023, has noticed that the prosecutrix in her testimony has

categorically deposed that when she was in the custody of the petitioner at Bathinda, the petitioner had committed forcible sexual intercourse with her against her wish.

Thus, 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 and also the fact that all the material witnesses have been examined by the trial Court; the custody period undergone by the petitioner including the fact that the custody certificate reveals that there is no other case against the petitioner; and that 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-Manpreet Singh S/o Charanjit Singh @ Channa, 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.

28.02.2024

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(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No