



**IN THE HIGH Court OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRM-M-50734-2024

Date of decision: January 20th, 2025

Jobanjit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Gagandeep Singh Bajwa, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J.

This is a third petition filed by the petitioner seeking the concession of regular bail in FIR No.16 dated 25.02.2020 registered under Sections 376/376-D (A)/323/120-B/366/366-A of the Indian Penal Code, 1860 and Section 6 of The Protection of Children from Sexual Offences Act, 2012, at Police Station Verowal, District Tarn Taran.

2. Learned counsel for the petitioner had on the previous date of hearing submitted that the petitioner has been in custody since 21.02.2021, yet the trial has not been concluded due to the continuous absence of certain prosecution witnesses, specifically police officials. It was contended that the material witnesses, including the victim have already been examined, and the remaining witnesses, who are formal in nature, are police officials whose testimony would not alter the course of the trial. The counsel argued that further incarceration of the petitioner, therefore, would serve no useful purpose, as there is no

possibility of the petitioner influencing or intimidating the remaining witnesses, given their status as police officials.

3. *Per contra*, while opposing the prayer and submissions made by the counsel opposite, learned counsel for the State underscored the gravity of the allegations against the petitioner. It was submitted on the previous date of hearing that the victim, who was 15 years old at the time of the alleged crime, had reiterated the allegations against all the accused, including the petitioner, during her deposition before the trial Court, as well as in her statement recorded under Section 164 of the Cr.P.C. The learned State counsel, on instructions, had also argued that the medical evidence corroborated the testimony of the victim, leaving no doubt about the commission of the offence by the accused, including the petitioner.

4. In view of the submissions made by the learned counsel for the petitioner about the delay in the conclusion of the trial for reasons attributable to the prosecution witnesses (police officials) and the State also admitting to the non-appearance of the police officials, vide order dated 09.12.2024, the Senior Superintendent of Police, Tarn Taran (for short S.S.P.), had been directed to appear in person before this Court.

5. In compliance with this Court's order dated 09.12.2024, S.S.P., Tarn Taran, has appeared in person and submitted a status report, which has been taken record subject to just exceptions. The S.S.P. has admitted that the trial has been delayed due to the repeated absence of prosecution witnesses, despite the issuance ofailable warrants for their appearance. The S.S.P. has tendered an apology for the lapses and informed the Court that departmental inquiries have been initiated

against the erring officials. The S.S.P. has further assured that measures have been put in place to prevent such delays in the future and to ensure that police officials diligently attend Court proceedings.

6. The learned State counsel while acknowledging that some delays in the trial were indeed caused by the non-appearance of formal witnesses, has however, on instructions, informed the Court that the prosecution evidence is now nearly concluded, with only one prosecution witness left to be cross-examined. It has been further argued that releasing the petitioner on bail at this stage would pose a risk of abscondence, which could derail the conclusion of the trial and deny justice to the victim. In addition, the State has referred to the serious allegations levelled in the FIR in question (Annexure P-1), which stands reduced hereinunder:

“Statement of XXXX daughter of XXXX resident of Village XXXX aged about 15 years Mobile No.XXXX. Stated that I am resident of above mentioned address and studying in 9th class at Government School, village Nagoke. On dated 12.12.2020 at 8:30 AM, I was going to my school, I saw one car colour white in which Leelawanti wife of Sukhdev Singh, who is my paternal grandmother in relation along with her son namely Gurpreet Singh Toni and Harpreet Singh allas Sanju was sitting, who asked me to sit in the car and they will drop me at my school. In the car, my grandmother was holding one glass of cold drink who offered me to drink. After drinking, I felt dizziness. They did not drop me in front of gate of my school. After some distance near the bus stand, the nephew of my grandmother namely Lovepreet sit in the car and started driving it and rest of them left from the car. Thereafter, I was unconscious. When I regained consciousness, I found myself locked in a room and I was in naked condition. There was pain in private parts of my body due to which I started crying. Then, Lovepreet, Komal and Joban who were present there, I know them who used to visit my grandmother's place. They made me to sit in the car and left me outside the village. I disclosed everything to my parents on coming back to home. My father went to the house of my grandmother Leelawanti for making complaint to her then Leelwanti and her two sons caught hold my father and gave beatings to him. My father made complaint regarding his beatings and taking me away by making me to sit in the car which is under investigation. Due to

humiliation, my parents did not disclosed about incident to anyone. Due to the intervention of respectable, I along with my mother Sharanjeet Kaur came present before your goodself for information. Necessary action be taken against the accused persons.”

7. I have heard learned counsel for the parties and perused the relevant material on record.

8. A reading of the FIR, which has been reproduced in the earlier part of the order and the testimony of the victim reveals that the allegations levelled in the FIR are grave and specific, involving the sexual assault of a minor. The victim, during her deposition before the trial Court, unequivocally corroborated the allegations made in the FIR and her statement recorded under Section 164 of the Cr.P.C. As per the learned State counsel, the medical evidence further substantiates the account given by the victim, *prima facie* hinting towards the involvement of the petitioner in the heinous crime.

9. While it is regrettable that the trial has been delayed due to the absence of certain prosecution witnesses, it needs to be noticed that these witnesses are formal in nature and their testimony is unlikely to change the course of the trial. The trial is now at an advanced stage, with only one witness remaining to be cross-examined. Given the seriousness of the allegations and the risk of abscondence, this Court does not find it appropriate to enlarge the petitioner on bail at this stage.

10. The instant petition, therefore, stands dismissed.

11. It is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

12. However, this Court cannot overlook the repeated non-appearance of prosecution witnesses, particularly police officials in

this case. Their casual and indifferent attitude has caused significant

delays in the trial, directly impacting the constitutional rights of both, the accused and the complainant.

13. The right to a speedy trial is a fundamental guarantee enshrined under Article 21 of the Constitution of India, which protects not only the personal liberty of an accused but also the larger interests of justice. Delays caused by the failure of prosecution witnesses to appear before the trial Court undermine this right, leaving the accused in prolonged incarceration and perpetuating uncertainty about their fate. Such delays are not mere procedural lapses but a direct affront to the principles of fairness and justice that underpin our legal system.

14. Equally, the complainant is entitled to timely justice. The protracted absence of key prosecution witnesses impedes the swift resolution of cases prolonging the trauma faced by victims and diminishing their faith in the judicial process. Justice delayed is justice denied, and the failure of police officials to discharge their duties as prosecution witnesses further erodes public confidence in the system.

15. This Court must emphasize that the responsibility of police officials extends beyond the maintenance of law and order; it includes cooperating with the judicial process to ensure that trials are conducted efficiently and expeditiously and when police officials, who are often cited as formal witnesses, fail to appear without cogent reasons, they not only delay the proceedings but also jeopardize the fair administration of justice.

16. To address this systemic issue, this Court directs the Director General of Police, Punjab, to take the following steps:

(i) **Accountability and compliance:** Effective measures must be implemented to ensure that police officials cited as witnesses appear

before the trial Court on the dates fixed. Non-compliance without sufficient cause must result in strict disciplinary action.

(ii) **Monitoring mechanism:** A robust monitoring system must be established to track the attendance of police officials in ongoing trials. Regular reports on the compliance should be submitted to the competent authority for review.

(iii) **Sensitising programmes:** Police officials must be sensitised about their role in facilitating speedy trials and the constitutional implications of their non-appearance on the rights of both the accused and the complainant.

17. It is, therefore, incumbent upon the authorities to treat this issue with the seriousness it deserves. The justice delivery system cannot function effectively without the active cooperation of its stakeholders, particularly those tasked with upholding the rule of law.

18. By ensuring timely attendance of prosecution witnesses, the State can fulfill its dual obligation of safeguarding the personal liberty of the accused while simultaneously ensuring that victims of crime are not denied their right to speedy justice

January 20th, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes