



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

210

Criminal Misc. No. M-28766 of 2024

Date of decision :-08.01.2025

Amritpal Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Balkaran Singh Aulakh, Advocate
for the petitioner.

Mr. Malkit Singh Dhillon, DAG, Punjab.

NIDHI GUPTA J. (Oral)

Prayer in this second petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner during pendency of the trial in case FIR No.05 dated 12.1.2022 (Annexure P-1) under Sections 346, 363, 366-A, 120-B and 376 IPC and Section 6 of POCSO Act, 2012, registered at Police Station City, Sri Muktsar Sahib, District Sri Muktsar Sahib.

The present FIR has been registered on the basis of statement made by the father of the alleged victim, which reads as follows :-

“....Sir it is requested that I Sukhjit Singh son of Balvir Singh resident of Gandhi Nagar Gali No.04 SMS I have two children elder daughter Gxxxx whose age is about 17 years 6 months. Today at about 2.30 PM she left home. She had taken about



Rs.20000/- and a mobile in which sim no.9592512917 and 9855318161 is activated. We traced her in our relations but she did not trace. Kindly help us in tracing our daughter. We shall be very thankful to you.”

Learned counsel for the petitioner, *inter alia*, submits that the victim in the present case is 17-½ years old; whereas the petitioner is 20 years old. It is submitted that in actual fact, the petitioner and the victim were in love affair and in a consensual physical relationship. Learned counsel submits that the petitioner is in custody for the last almost three years and accordingly prays for grant of regular bail to him.

Notice of motion.

On asking of the Court, Mr. Malkit Singh Dhillon, DAG, Punjab accepts notice on behalf of respondent-State and opposes the prayer made on behalf of petitioner and submits that the victim in the present case is a minor girl being 17-½ years of age. It is submitted that she had gone missing on 11.1.2022 and was recovered on 17.1.2022 from the custody of the petitioner, whereafter the petitioner was arrested. It is pointed out that the victim in her statement under Section 164 Cr.P.C. as also in her testimony as PW3 has supported the prosecution case. Even the complainant/father of the victim as PW1 and mother of the victim as PW2 have supported the prosecution case. Furthermore, as per para 5 of the Status Report dated 02.10.2024 filed by way of affidavit of Satnam Singh, PPS, Deputy Superintendent of Police, Sub Division Sri Muktsar Sahib, it is recorded that on 17.1.2022 upon recovery, the victim was brought to



the Civil Hospital, Sri Muktsar Sahib for her medical examination but she did not give her consent for medical check-up. However, on 19.1.2022 her slid and swab samples were taken for DNA test. Thereafter, on 20.1.2022, the petitioner was also brought to the Civil Hospital, Sri Muktsar Sahib for his medical examination, from where his DNA samples were taken. As per the DNA Report dated 31.1.2023 no human semen was detected on vaginal swabs of the victim/prosecutrix. Learned State counsel has filed the Custody Certificate dated 07.1.2025 in Court. The same is taken on record. Copy thereof is supplied to the counsel opposite. As per the Custody Certificate, the petitioner has undergone the actual custody of 02 years, 11 months and 21 days as undertrial. Learned State counsel, on instructions, further informs that out of total 23 prosecution witnesses, 08 witnesses have been examined and 15 witnesses are yet to be examined; and the next date fixed before the learned trial Court is stated to be 30.1.2025. Learned State counsel, however, admits that as per the custody certificate filed, the petitioner is not involved in any other case.

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: a) the custody period of 02 years, 11 months and 21 days undergone by the petitioner as an undertrial; b) no other case is pending against the petitioner as evident from the custody certificate placed on record; c) material witnesses i.e. the victim/prosecutrix, her father (complainant) and her mother have already been examined; and d) out of total 23



witnesses, 08 witnesses have been examined so far, 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-Amritpal Singh s/o Sukhdev 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.

January 08, 2025

Vijay Asija

(**NIDHI GUPTA**)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No