

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-42983-2015

Date of Decision: December 24, 2015

Jaswant Singh

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI**

Present: Mr. Vivek Goel, Advocate,  
for the petitioner.

Mr. P.S. Paul, DAG, Punjab,  
for the respondent.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

**NARESH KUMAR SANGHI, J (Oral)**

Prayer in this petition, filed under Section 439, Cr.P.C., is for grant of bail to the petitioner, Jaswant Singh, son of Karnail Singh, resident of village Mari Mustfa, Tehsil Baghapurana, District Moga, who has been booked for having committed the offences punishable under Sections 148, 323, 325 and 376(2)(g) read with Section 149, IPC, and Sections 66 and 67 of the Information and Technology Act, 2000, in a case arising out of FIR No. 63, dated 30.4.2015, registered at Police Station, Baghapurana, District Moga.

Learned counsel contends that as per prosecution version, the prosecutrix alongwith her friend, Chamkaur Singh,

had stayed at the house of the petitioner; 8/9 persons entered into the house of the petitioner, caused injuries to the prosecutrix and took her away to the fields and committed gang rape on her; during trial, the prosecutrix has appeared as PW-1 and she has failed to support the prosecutrix version; her deposition is annexed as Annexure P-1 with the present petition; and that the persons who allegedly committed gang rape on the prosecutrix were declared innocent by the police and, as such, the petitioner could not be booked for having committed the offence punishable under Section 376(2)(g), IPC. He further submits that vide order dated 19.11.2015, learned Trial Court dismissed the bail application of the petitioner without considering the deposition of the prosecutrix, dated 28.9.2015, that she had failed to support the prosecution case. He further submits that the deposition of the remaining prosecution witnesses would not improve its case to connect the petitioner with the alleged gang rape.

Learned counsel for the State on instructions from HC Nachattar Singh of Police Station, Baghapurana, District Moga, has not controverted the fact that the prosecutrix has failed to support the prosecution version. He further fairly concedes that there is no other eye-witness to the occurrence of rape. It has also been admitted that the persons alleged to have committed gang rape, have been declared innocent by the police.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

In view of totality of facts and circumstances of the

case, the present petition is accepted. The petitioner, Jaswant Singh, son of Karnail Singh, resident of village Mari Mustfa, Tehsil Baghapurana, District Moga, is ordered to be released on bail during pendency of the trial of the present case, subject to his furnishing bail bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Moga.

It is made clear that the observations made here-in-above are for the limited purpose of deciding the present petition for grant of bail.

**(NARESH KUMAR SANGHI)**  
**JUDGE**

**December 24, 2015**  
Pkapoor