

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

**CRM No.M-19261 of 2017
Decided on: 02.06.2017**

Ferozdin

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

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

Mr. Ankur Jain, AAG, Punjab.

REKHA MITTAL, J. (Oral)

The petitioner prays for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.60 dated 28.06.2012, for offence punishable under Sections 341, 363, 366-A of the Indian Penal Code, 1860 (in short 'IPC') (offence under Section 376 added later) registered in Police Station Ghuman Kalan, District Gurdaspur.

Counsel for the petitioner has submitted that the petitioner is the son of Obajdin whereas in the FIR, father's name of Feroz has been mentioned as Jabru. It is further submitted that the entire proceedings for declaring said Feroz as a proclaimed offender were conducted by mentioning his father's name as Jabru, therefore, there could be no notice to the petitioner of those proceedings that culminated in an order declaring Feroz as a proclaimed offender. In addition, it is argued that the FIR was registered against four persons but the challan was presented against Aalamdeen @ Aalam as the remaining three were declared as proclaimed offenders. During trial

against Alamdeen, charge under Section 363, 366-A, 109 read with Section 376 IPC was framed. The prosecutrix and complainant – Roshandin were examined as PW3 and PW4 and both of them failed to support cause of the prosecution and even denied any such occurrence of kidnapping or rape. It is further submitted that the petitioner was taken into custody on 15.04.2017 and till date, the police has not presented the supplementary challan, therefore, conclusion of the proceedings is likely to take its own time.

Counsel for the State has submitted that the petitioner cannot take advantage of his father's name being Obajdin viz-a-viz father's name of Feroz mentioned in the FIR for the reason that a test identification parade was conducted and the petitioner was duly identified by the prosecutrix. It is further submitted that in view of allegations against the petitioner coupled with the factum that earlier he was declared as a proclaimed offender, he does not deserve to be enlarged on bail.

I have heard counsel for the parties, perused the paperbook and the police records.

Counsel for the State has not disputed that father's name of the present petitioner is Obajdin and the same is apparent from his Aadhar Card (Annexure P10). The proceedings with regard to declaring accused – Feroz as proclaimed offender was conducted with his father's name as Jabru. Indisputably, one of the accused namely Aalamdeen @ Aalam faced trial but the prosecutrix and the complainant not only failed to support cause of the prosecution but even gone to the extent of denying any such occurrence. The police till date has not presented the

supplementary challan and thereafter conclusion of the trial is likely to take its own time.

Without meaning to express any opinion on merits of the controversy, bail to the petitioner subject to satisfaction of the Successor Court of Sh. R.S. Rai, the then Additional Sessions Judge, Gurdaspur. The Court would seek adequate surety in order to ensure presence of the petitioner during trial. However, the petitioner shall remain bound by the following conditions:-

- (i) He shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade his/her from disclosing such facts to the Court or to any police officer; and*
- (ii) He shall not leave India without the previous permission of the Court.*

02.06.2017
yakub

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No