

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

-.-

Crl. Misc. M 8019 of 2017
Date of decision: 16.03.2017

Narinder Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Rakesh Kumar, Advocate
for the petitioner

Mr. Ankur Jain, AAG, Punjab

-.-

Rekha Mittal, J.

The petitioner prays for grant of regular bail in FIR No. 19 dated 14.03.2014 for offence punishable under Sections 363, 364, 376 (D), 452, 342, 148 and 149 read with Section 120-B of the Indian Penal Code registered at Police Station Sri Hargobindpur, Tehsil Batala, District Gurdaspur.

Counsel for the petitioner has submitted that the petitioner is in custody for the past about two years. A false case has been registered against the petitioner and his family members at the instance of mother of the prosecutrix in order to create a defence qua FIR No. 20 dated 14.03.2014 against Ravi son of the complainant and brother of the prosecutrix for having kidnapped Nargis daughter of Hira Singh. It is further argued that Manjinder Kaur alias Manu filed a petition (CRM M 10956 of 2014) wherein Ravi was impleaded as respondent No. 5 and in

those proceedings, respondent No. 5 (Rani) stated before this Court recorded in order dated 21.01.2015 passed in CRM M 10956 of 2014 that he did not want to prosecute case FIR No. 19 dated 14.03.2014 in case the petitioners' side agrees to drop the proceeding in FIR No. 20 dated 14.03.2014. The last submission made by counsel is that as conclusion of trial is likely to take its own time, the petitioner may be released on bail.

Counsel for the State has hotly contested the petition on the premise that daughter of the complainant, Raj Kaur was forcibly taken away by the petitioner and his associates whose name have been detailed in the FIR as they came to the house of the complainant on the pretext that they had doubt that Ravi had taken away Nargis, sister of the petitioner. It is further submitted that the prosecutrix recorded her statement under Section 164 Cr.P.C. levelling specific allegations against the petitioner for subjecting her to sexual assault and committing rape. The prosecutrix was medically examined and as per the report of the Forensic Science Laboratory, spermatozoa was found in the contents of vaginal swabs introitus, vaginal swab posterior and salwar.

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

The prosecutrix in her statement recorded under Section 164 Cr.P.C. has narrated her tale of woe levelling allegation of rape against the petitioner and one more person. She was subject to medical examination and the report with regard to vaginal swabs and clothes of the prosecutrix taken into possession by the doctor shows that spermatozoa was found in the contents of vaginal swabs introitus, vaginal swab posterior and salwar.

Offence under Section 376 IPC is serious in nature. The prosecutrix is yet

to be examined in the case. The mere fact that brother of the prosecutrix against whom FIR No.20 dated 14.03.2014 has been lodged with regard to kidnapping etc. of Nargis had made some statement before this Court in CRM M 10956 of 2014 cannot be taken as a mitigating circumstance in favour of the petitioner. Similarly, custody of the petitioner for a period of about two years itself cannot be a ground for his release on bail.

Taking into consideration gravity of allegations against the petitioner, I do not think it to be a fit case wherein the petitioner deserves to be enlarged on bail.

Dismissed.

(Rekha Mittal)
Judge

16.03.2017
mohan bimbira

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