

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Misc. No. M-19417 of 2018
Date of Decision: 15.5.2018**

Hirdepal Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rajesh Kapila, Advocate
for the petitioner.

Mr. K.S.Aulakh, DAG, Punjab.

ANITA CHAUDHRY, J

The petitioner is seeking regular bail in FIR No. 42 dated 9.11.2016 registered at Police Station Bhaini Mian Khan, District Gurdaspur under Sections 376-D, 380, 323, 324, 452, 506 IPC (Sections 326 and 201 IPC added subsequently).

Counsel for the petitioner contends that the complainant had lodged an FIR where allegations of attempt of rape had been made against Baljinder Singh who is also named in the present FIR and that trial ended in acquittal and the Court has been directed to initiate proceedings under Section 340 Cr.P.C. against the complainant and her mother. The counsel further states that the FIR has been lodged after four days and the petitioner is in custody since 3.11.2017 and challan has been presented.

The complainant is a widow. There is one incident which occurred on 4.11.2016 at 6.00 P.M. The medical was got conducted at 12.05 A.M. The second incident of rape as alleged was at 3.30 A.M. the same night by the petitioner and 2-3 other persons. The medical was got

conducted after four days. The FIR was also lodged after delay of four days. The FSL report has been received. Spermatozoa was found but the police has not sent the samples for DNA testing.

There is civil and criminal litigation going on between the complainant and the other accused. The trial Court will have to determine the time of discharge from the hospital that night and decide whether the second incident could have occurred the same night.

The investigation is over. Challan has been presented.

Without commenting anything on the merits of the case and considering the fact that the trial will take time to conclude, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing local surety and adequate bonds to the satisfaction of the trial Court/Duty Magistrate.

(ANITA CHAUDHRY)
JUDGE

May 15, 2018
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No