

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-40116-2019 (O&M)

Date of Decision:-13.11.2019

Gurdial Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sant Pal Singh Sidhu, Advocate for the petitioner.

Ms. Rashmi Attri, Assistant Advocate General, Punjab,
assisted by ASI Balbir Chand.

Proxy counsel for the complainant.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.39 dated 23.4.2017 at Police Station Goindwal Sahib, District Tarn Taran under Sections 365, 342, 323, 376-D and 506 of Indian Penal Code.
2. The FIR was registered at the instance of Baljeet Kaur, wherein it has been alleged that her brother-in-law Baljit Singh had solemnized marriage with a girl of the same village namely Sandeep Kaur on 23.4.2016, which was solemnized in Court and on account of which the accused namely Gurdial Singh, Joginder Singh, Bhupinder Singh, Baljit Singh, Davinder Singh, Mandeep Singh, Kailon and Baljinder Singh @ Sadha Singh nursed a

grudge. It is alleged that on an earlier occasion the accused had insulted her and made her stand at a '*churaha*' of the village after tearing off her clothes. It is further alleged that on 25.11.2016, the accused entered into her house and abducted her along with one of her child and took her to Gurdial Singh's house where the accused committed rape upon her for two days. It is further alleged that subsequently she was taken to the fields away from the village and was kept there forcibly for two months, wherein also the accused used to commit rape upon her.

3. The learned counsel for the petitioner has submitted that the petitioner is an Ex-Sarpanch aged 64 years and the present FIR is apparently an outcome of political rivalry. The learned counsel in this regard has drawn the attention of this Court to another FIR i.e. FIR No.22 dated 9.4.2016 registered at Police Station Goindwal Sahib under Sections 376-D and 120-B of Indian Penal Code (Annexure P-1), which was got lodged at the instance of petitioner's sister-in-law Sandeep Kaur against brother-in-law of the prosecutrix i.e. against Baljit Singh and other accused, which was lodged prior to lodging of the present FIR. The learned counsel has further submitted that in the present case three of the co-accused namely Joginder Singh, Baljit Singh and Davinder Singh have already been granted bail and that in these circumstances the petitioner, who has been behind bars since the last more than three months, also deserves the concession of bail especially since challan already stands presented.
4. Opposing the petition, the learned State counsel assisted by counsel for the complainant has submitted that in view of the specific allegations levelled in the FIR and the fact that FIR No.22 dated 9.4.2016 (Annexure P-1) is infact a counter blast to another FIR which had been lodged even prior to the said

FIR No.22 dated 9.4.2016 at the instance of Harmandeep Kaur i.e. sister-in-law of the prosecutrix. The learned counsel has further submitted that the petitioner cannot claim parity on account of grant of bail to the other co-accused as the same was granted in terms of provisions of Section 167(2) Cr.P.C. It has further been submitted that since four of the co-accused are still absconding, therefore, no case for grant of bail is made out.

5. I have considered rival submissions addressed before this Court.
6. There is a delay of about 5 months in lodging the FIR. Although the learned State counsel has attempted to explain that the delay was on account of the fact that the prosecutrix had been kept confined for about more than two months but it remains unexplained as to why despite disappearance of the prosecutrix for months together, no FIR was ever got lodged in respect of the factum of her being missing from home. In any case, since the petitioner has been behind bars since the last more than three months and challan already stands presented and since the veracity of allegations is yet to be finally established, further detention of the petitioner will not serve any useful purpose as conclusion of trial is likely to take some time. The petition, as such, is accepted and it is ordered that the petitioner be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

13.11.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No