

231.

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

CRM-M-50105-2018

Date of decision:08.01.2019

JOBAN SINGH @ ANUP SINGH

... Petitioner

versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Amit Shukla, Advocate, for the petitioner.

Mr.Rana Harjasdeep Singh, DAG, Punjab.

HARI PAL VERMA, J.*(Oral)*

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.018 dated 31.05.2018 registered under Sections 376/511 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Mattewal, District Amritsar.

Learned counsel for the petitioner has argued that the family of the petitioner and the complainant's family are residing in the same house and are in close relations. The father of the petitioner namely Surjit Singh and husband of the complainant namely Bachittar Singh are real brothers. There are some *inter se* property disputes between the parties and for this reason, the complainant-Kulwinder Kaur has got a case registered against the petitioner. The petitioner is about 20 years of age. Moreover, the offence of rape has not been committed and the allegation, if any, is only an attempt of rape. He is in custody since 31.05.2018 and the trial in the case

will take sufficient long time as only 5 witnesses have been examined so far, whereas the prosecution has cited as many as 13 witnesses.

Learned State counsel has filed the custody certificate of the petitioner in court today, which is taken on record. He states that taking into consideration the nature of allegation, the petitioner is not entitled for concession of regular bail and at the most, trial can be expedited. He states that nothing has come on record to substantiate that there is family property dispute between the parties.

I have heard learned counsel for the parties.

The petitioner, who is about 20 years of age, is a real nephew of Bachittar Singh and the case was registered on the basis of statement of Kulwinder Kaur, who is real aunt (wife of Bachittar Singh). As per the FIR, when the complainant was entering the house, she noted that the petitioner has removed the trouser/*pajami* of her daughter and he had also removed his clothes in order to make an attempt of rape. The petitioner is in custody since 31.05.2018. The trial in the case will take long time. It is not the case that the petitioner has committed rape rather made an attempt to commit rape. The culpability of the petitioner in the crime is yet to be established during the trial.

Accordingly, present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court.

(HARI PAL VERMA)

JUDGE

January 08, 2019

Jyoti-1 Whether speaking/reasoned Yes/No Whether reportable Yes/No