

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

241

CRM-M-8248-2020

Date of Decision:02.03.2020

Inderjit

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Ajay Pal Singh Rehan, Advocate,
for the petitioner.

Ms. Ruchika Sabharwal, AAG, Punjab.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.64 dated 28.10.2019 under Sections 376, 450, 506 IPC and Sections 6 & 12 of the Protection of Children from Sexual Offences Act, 2012 (the offences under Sections 376 (3), 354-D, 509 IPC were added later on), registered at Police Station Garhdiwala, District Hoshairpur.

The aforesaid FIR was registered at the behest of the prosecutrix. In September 2017, when the prosecutrix was studying in 10+1 class in Govt. Senior Secondary School, Dhugga Kalan and was returning home on her bicycle after appearing in the examination, she reached near the poultry farm of Jaspreet Singh @ Jassa, who was already standing there. He stopped the prosecutrix by coming in front of her bicycle and asked her that he wanted to discuss something with her. He took her to the poultry

farm by holding from the arm and forcibly raped her. Accused Jaspreet Singh @ Jassa has disclosed it to his other friend Inderjit(petitioner), who is neighbour of the prosecutrix. In this manner, the petitioner also started to keep bad eye on her. On 01.01.2019, when she was alone at home, petitioner came to her house on some pretext and committed rape upon her. When she was alone, he has also given threats to her that if she told anything to anybody, he will defame her in the village. For this reason, she did not disclose this fact to anybody. Whenever she used to pass through the street, brothers of the petitioner Nitin Kumar and Rajesh Kumar used to give taunts to her by using vulgar language and they also started to defame her in the village and for this reason, she started remaining upset.

Learned counsel for the petitioner has argued that the petitioner is in custody since 28.10.2019. The incident has taken place on 01.01.2019, whereas the matter was reported to the police on 28.10.2019. There is no medical evidence, so as to support the case of the prosecution as there is no such DNA report, which establishes the commission of rape by the petitioner. Even her statement recorded under Section 164 Cr.P.C. is not specific as regards date and time of the alleged incident dated 01.01.2019. He refers to the statement of the Gram Panchayat, Village Nangal Khunga, Block Tanda, Hoshiarpur, whereby the said Gram Panchayat has handed over the custody of the prosecutrix and Ajay son of Ashok Kumar, who is friend of the prosecutrix, to the Panchayat of village Johlan.

Learned State Counsel does not dispute the custody period of the petitioner. However, she submits that the prosecutrix in the case is minor and she was subjected to rape by the petitioner as well as other co-accused Jaspreet Singh @ Jassa. In her statement recorded under Section

164 Cr.P.C., she has stated that even one month after 01.01.2019, she was repeatedly subjected to sexually assault.

Heard learned counsel for the parties.

Petitioner is in custody since 28.10.2019. There is no DNA report, so as to establish the case of the prosecutrix that the petitioner committed rape upon her. Moreover, trial in the case is not likely to be concluded in the near future. There is no specific allegation as regards date and time of the alleged incident and in the absence of DNA report, this Court finds that the petitioner deserves to be admitted on bail.

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

However, it is made clear that the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

March 02, 2020
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No