

S.No.203

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

CRM-M-12950 of 2020 (O&M)

Date of Decision:07.07.2020

Harpreet Singh @ Kala

.....Petitioner

Vs.

State of Punjab

.....Respondent

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IN VIRTUAL COURT

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CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Manuj Nagrath, Advocate for the petitioner.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of bail pending trial in case FIR No.330 dated 17.12.2018 registered under Section 376, 34 IPC and added offence under Section 376-D IPC and Sections 3 and 4 of POCSO Act, 2012 at Police Station Sadar Jagraon, District Ludhiana.

It is contended by counsel for the petitioner that the case against the petitioner is totally false and baseless. The petitioner's name has been included in the case because of family rivalry. The falsity of the case is clarified by the very fact that there has been a long delay in lodging the FIR. Except the statement of the prosecutrix, there is no evidence to corroborate the allegations against the petitioner. Even the medical evidence does not show any external injury, therefore, any rape by force is totally excluded. In any case, at the time of registration of the FIR, the prosecutrix was pregnant and she had deliberately withheld the fact qua pregnancy. In fact the pregnancy was not from the petitioner but from

somebody else. Hence, the petitioner had moved an application to get the DNA of the petitioner compared with the DNA of the child; who has been born subsequently. The Court had even allowed that application. However, the prosecutrix had refused to get the DNA of the child matched. This also shows that the prosecutrix is levelling baseless allegations against the petitioner. The petitioner is in custody since 18.12.2018. The prosecutrix and other significant witnesses of the prosecution have already been examined. However, out of total 18 witnesses, only 10 witnesses have been examined so far. The trial is not proceeding further at the right speed. The petitioner is not required for any investigation purposes. No useful purpose would be served by keeping the petitioner behind the bars. Hence, the petitioner deserves to be released on bail.

Notice of motion.

Ms. Monika Jalota, DAG, Punjab, accepts notice on behalf of the State.

Learned State Counsel, on instructions from ASI Paramjit Singh, submits that there is direct allegation against the petitioner. The prosecutrix has even begotten a child from the petitioner. The prosecution is examining the witnesses in the right earnest. However, it is not disputed that the petitioner is in custody since 18.12.2018. It is also not disputed that the application moved by the petitioner for getting the DNA test conducted was allowed by the trial Court, however, the prosecutrix, refused to get the test conducted. It is also not disputed that only 10 out of 18 witnesses have been examined so far.

In view of the above, but without commenting any further upon merits of the case, the present petition is allowed. It is ordered that the petitioner be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

July 07, 2020
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No