

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

CRM-M-13183-2020

Date of Decision: 06.08.2020

Shamsher Singh @ Shera

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Manu Loona, Advocate,
for the petitioner.

Mr. Harbir Sandhu, A.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

This petition has been filed under the provisions of Section 439 of the Cr.P.C. seeking 'regular bail' for the petitioner in case FIR no. 34, dated 17.03.2018, registered at Police Station Arniwala, District Fazilka, for the alleged commission of an offence punishable under Section 376-D of the IPC.

On 19.06.2020, the following order had been passed by this court:-

*“All cases listed today have been taken up
for hearing by way of video conferencing because of the
situation existing due to the COVID-19 pandemic.*

*Pursuant to the order dated 10.06.2020,
Mr. Beniwal, learned AAG, Punjab, submits that the
Forensic Science Laboratory report has been received,
stating therein that the only identifiable human semen
found, was on the Salwarkameez sent to the laboratory,
but as no sample of the semen of the accused was sent
alongwith, naturally, no matching of DNA could be*

done.

Mr. Loona, learned counsel for the petitioner, submits that the petitioner is voluntarily willing to supply the sample of his semen for such comparison, as his specific contention is that the petitioner was not even involved at all in the alleged gang rape.

In view of the above, the statement of the petitioner is directed to be recorded before a learned Judicial Magistrate (as to whether he wishes to give his semen sample or not), and thereafter if he wishes to do so, it would be sent for DNA analysis immediately, with the report thereto to be produced before the next date of hearing, as regards comparison of the DNA.

Adjourned to 23.07.2020.”

Thereafter, the report of the FSL not having been received, the Director of the FSL had been ordered, vide an order dated 23.07.2020, to file an affidavit as to why the previous order had not been complied with, failing which he was required to be personally present in court today.

Today, though neither the affidavit has been filed nor is the Director present in court, learned State counsel has forwarded to the Reader of this court, the FSL report itself as regards the DNA test conducted, which has also been forwarded to me, with a printout thereof taken.

The conclusion of the report reads as follows:-

“Conclusion:

From the above observation, it is concluded that:

*1. Human semen present on the Exhibits C-1 and C-2 (Source: Salwar and Kameez of Manjeet Kaur) **does not belong to** Shamsher Singh (Source: Exhibit E).”*

In view of the above, without making any comment on the actual merits of the case, the petition is allowed. The petitioner shall be admitted to bail upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial court/Chief Judicial Magistrate/Duty Magistrate, concerned.

August 06, 2020
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No.