

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

CRM-M-16786 of 2020.

Decided on:- July 24, 2020.

Sukhwinder Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. Amandeep Singh Nirmaan, Advocate
for the petitioner.

Mr. Randhir Singh Thind, D.A.G., Punjab.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

This is the second petition filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in FIR No.274 dated 17.12.2017 under Sections 376 and 506 read with Section 34 IPC (offence under Section 376-D IPC added later on) registered at Police Station City Faridkot, District Faridkot.

The earlier petition filed by petitioner for the same relief was dismissed as withdrawn vide order dated July 16, 2019 passed by this Court in ***CRM-M-1417 of 2019*** titled as ***Sukhwinder Singh Versus State of Punjab.***

The aforesaid FIR was registered at the behest of Gurmeet Kaur, who is owner of the trucks which are being used to ply on rent for

loading/unloading. She is a divorcee. As per FIR, the petitioner was serving as a driver on her truck and had stolen the truck some time back. He called the prosecutrix so as to settle the dispute by paying money in relation to the truck. He had said that he would settle the matter by visiting Faridkot. Thereafter, on the date of incident i.e. 12.12.2017, petitioner informed the complainant about his visit to Faridkot. He also informed her that there is break down in the truck and therefore, he would be coming late. At about 9.00 PM, the petitioner again called the complainant while saying that he is standing on the curve of Balbir Basti along with the truck and could not pass due to low lying electricity wires. He asked the complainant to collect money. Believing him, the complainant went to Balbir Basti curve, where the petitioner was found present. He was accompanied by Jasveer Singh son of Makhan Singh and Shamsher Singh @ Shera son of Bhola Singh. The petitioner and his accomplices allured the complainant and said that they will go to her home and will settle the issue regarding the disputed money after having a cup of tea. Believing them, the complainant seated in the truck and accused drove the truck to some unknown place, where the petitioner committed rape upon her thrice against her consent.

Learned counsel for the petitioner has argued that the petitioner is a handicapped person and is in custody since 18.05.2018. He has referred to the referral slips of the petitioner issued by Central Jail Hospital, Faridkot from 25.02.2020 to 11.05.2020 as Annexure P-3 (colly) to contend that on account of pain in his tooth, the petitioner has been referred to Civil Hospital, Faridkot as the dental doctor was not available in the jail hospital. On account

of dental pain, the petitioner was unable to eat. The conclusion of trial is likely to take long time.

He has further argued that there was some money dispute between the petitioner and the prosecutrix. The alleged incident had taken place on the intervening night of 12/13.12.2017, whereas the FIR was registered after 5 days i.e. on 17.12.2017. Thus, the present FIR has been registered against the petitioner with an ulterior motive in the background of money dispute.

Learned State counsel does not dispute the custody and states that the petitioner is the main accused in the case and the allegation against him is that he has committed rape upon the prosecutrix.

I have heard learned counsel for the parties.

The petitioner is in custody since 18.05.2018. The alleged incident had taken place on the intervening night of 12/13.12.2017, whereas the present FIR was registered on 17.12.2017 and the prosecutrix was medically examined on 17.12.2017. The medical report as Annexure P-3 (colly) does reflect that the petitioner has pain in his tooth for which he was referred to Civil Hospital, Faridkot as there was no dental doctor in the jail hospital.

Considering the custody and pain in the tooth of the petitioner and the fact that the trial is not likely to be concluded in near future, this Court finds that the petitioner deserves to be admitted on bail.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail and surety bonds to the satisfaction of learned trial Court/Duty Magistrate.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

July 24, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:Yes

Whether Reportable:No