

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M-19338 of 2020 (O&M)
Date of Decision: December 04, 2020

Baldev Singh

...Petitioner

Versus

State of U.T.Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Robin Singh, Advocate,
for the petitioner.

Mr. Gautam Dutt, AAP for U.T.Chandigarh.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.109 dated 14.11.2016, under Sections 376, 328, 342, 366, 392 and 34 IPC, 1860, registered at Police Station, Sector 17, Chandigarh. The petitioner is in custody since his arrest on 14.11.2016.

The above FIR was registered on the basis of an e-mail dated 24.04.2015 received from the complainant, wherein it was stated that she is citizen of USA and travelled from Rishikesh to Chandigarh. On 17.04.2017, she left Haridwar in the afternoon and the bus arrived at Sector 17, Chandigarh around 9 p.m. She hired a rickshaw at 9.30 p.m., which had upper number 87, whereas the lower number was 177. The driver of the rickshaw told his name as Monu, who drove her outside the city beyond the big mall and to the house owned by another rickshaw driver, where they

held her. Monu hit her with a knife and forced her to drink alcohol mixed with orange soda and they raped her. On these broad allegations, the above FIR was registered.

Learned counsel for the petitioner contends that the alleged occurrence took place on 17.04.2015, whereas the FIR was lodged on 14.11.2016. He submits that after completion of investigation, a final report dated 05.03.2018 was submitted before the Court and after commencement of the trial, the complainant (victim) was examined as PW-10 on 21.05.2019. He has invited the attention of the Court to her testimony to contend that the complainant has failed to identify the petitioner as an offender of the alleged offence. He submits that the petitioner is in custody for approximately last three years and the trial is likely to consume considerable time as still twelve prosecution witnesses remain to be examined. He prays for grant of regular bail, during the pendency of the trial.

On the other hand, the prayer is opposed by Mr. Gautam Dutt, learned Assistant Public Prosecutor for U.T.Chandigarh on the ground that the other witness, namely, Gaganpreet Singh, who was examined as PW-11, has specifically testified before the Court that he was a co-passenger with the victim in a three-wheeler which was driven by the petitioner and when he alighted, the victim alone was left with the petitioner. However, according to him, the testimony of the victim regarding the identification of the petitioner as the offender would be examined by trial court. He, on instructions from Inspector Parvesh Sharma, has pointed out that the e-mail of the complainant was received on 24.04.2015 and after verification of the same, the FIR was registered after a gap of one year and seven months.

According to him, twelve witnesses are yet to be examined and the case is now fixed for 17.12.2020.

Considering the above background, custody of the petitioner and the fact that the material witnesses, including the complainant have already been examined and the trial is likely to consume considerable time to conclude as there is outbreak of global pandemic COVID-19 in the region. The petitioner is presently confined in judicial and, therefore, his further detention may not be necessary for any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Chandigarh.

December 04, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No