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

CRM-M-21317-2020

Date of Decision: 13.08.2020

Raj Kumar @ Raju**.. Petitioner****Vs.****State of Punjab****..Respondent****CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Jasdeep Kalsey, Advocate for the petitioner.

Mr. H.S. Sitta, AAG, Punjab.

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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.62 dated 25.06.2018 , under Sections 376-D, 363, 366-A, 376 and 506 IPC read with Section 34 IPC, 1860 and Sections 3 and 4 Protection of Children from Sexual Offences Act, 2012 and Sections 3 and 4 of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, registered at Police Station Sadar Rampura, District Bathinda. The petitioner is in custody for approximately 01 year and 10 months.

The FIR was registered on the basis of complaint given by Sewak Ram and the allegations as noticed by the Addl. Sessions Judge, Bathinda in the order dated 10.06.2020 are as under:

“This case was registered on the statement of complainant Sewak Ram, with the allegations that on 24.6.2018, he alongwith other family members had gone to fields to sow paddy crop. Later on, his mother and grandmother went out of house for bringing fodder for cattle and his sister/prosecutrix remained alone in the house. When they returned home at 6:00 p.m., they found that the prosecutrix was not available there. On 25.6.2018 at 12:15 p.m., the complainant received a phone call of his sister from phone No. 97796-66165 on his mobile that she was standing at Rampura T-point. On this, the complainant alongwith his relatives went

there and brought the prosecutrix home. The prosecutrix told that on 24.6.2018 at about 2:00 pm, when she was all alone in the house, a motor cycle stopped in front of gate of their house and Dharma Singh s/o Kewal Singh and Jagsir Singh s/o Binder Singh entered the house, who were already known to her and they told that her father had met with an accident and asked her to accompany them. She got nervous and believing their version accompanied them on their motor cycle. They took him to a house at Rampura, where one boy, being called as Raju, was also present and all of them started indulging in obscene activities with her. When she protested their aforesaid misconduct, they made her to drink cold drink laced with some intoxicant, due to which, she fell unconscious. When she gained senses in the morning, she came to know that the trio had committed rape upon her. When she raised alarm, they threatened to eliminate her and at about 12:00 noon, left her at T-point Rampura.”

Learned counsel for the petitioner has contended that the prosecutrix has been examined as a witness before the trial Court and has not supported the prosecution case qua his co-accused, namely, Jagsir Singh and Dharma Singh. According to him, the prosecutrix was allegedly kidnapped by these two accsed persons and, therefore, her testimony qua the petitioner regarding the alleged rape loses significance and, therefore, the petitioner also deserves the concession of regular bail. It is pointed out by him that his co-accused Jagsir Singh has been released on bail by this Court vide order dated 19.02.2020. Learned counsel for the petitioner contends that there is no medical evidence of the alleged commission of offence punishable of rape as the victim had refused for her medical examination.

On the other hand, the learned State counsel assisted by ASI Kewal Singh has opposed the prayer on the ground that the prosecutrix has stated before the Court that the petitioner was a person, who committed rape upon her, however, it is not disputed by him that she turned hostile in respect of the other two co-accused. It is pointed out that in all, there are 20

prosecution witnesses and 7 have been examined so far.

Considering the above, the custody of the petitioner and the fact that the co-accused of the petitioner has been released on bail, this Court does not find any reason to decline the prayer of the petitioner, as the material witnesses have already been examined. Apart from it, the trial is likely to consume considerable time to conclude in view of the spread of global pandemic, namely, COVID-19, as the State Administration has imposed restrictions to curb its spread, so no useful purpose would be served by keeping the petitioner behind the bars. Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Bathinda.

The petition is allowed.

13.08.2020
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No