

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-22437-2020 (O&M)

Date of Decision:-30.10.2020

Rajinder Prasad Tiwari

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Chanchal K. Singla, Advocate for the petitioner.

Mr. Amit Mehta, Sr. DAG, Punjab.

Mr. Vaibhav Sehgal, Advocate for the complainant.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of regular bail in a case registered against him vide FIR No.168 dated 29.9.2018 under Sections 376/354/506 IPC (later on offence under Section 376 IPC deleted) at Police Station Haibowal, District Ludhiana.
2. The FIR in question was lodged at the instance of victim wherein it is alleged that she was married to Mohit Tiwari on 3.6.2015 and that her husband usually remains on tour in connection with his business as the family is running two cloth shops. It is alleged that on 10.4.2018 when she was 1½ months pregnant and was alone at her home, as her husband had

gone out in connection with his business, then her father-in-law Rajinder Tiwari entered her room and forcibly removed her clothes and raped her. It is alleged that when she brought the said fact to the notice of her husband and mother-in-law in the evening, they put off the matter while stating that the victim was telling a lie. The victim alleged that on 25.4.2018 when she was having fever, her father-in-law brought medicine for her and upon consuming the said medicine her condition deteriorated and she started bleeding and her father-in-law, thereafter, took her to a hospital where her pregnancy was got terminated. The victim alleged that she was sure that her father-in-law had intentionally administered her medicine for causing miscarriage of pregnancy. The victim further alleged that she was again raped by her father-in-law on 24.6.2018 and though she disclosed about the said act to her husband and mother-in-law but her husband slapped her and told her that she was levelling false allegations. The victim further alleged that on 29.7.2018 when her husband was away to Gujarat, her father-in-law took her to their shop where again he made an attempt to rape her but she somehow pushed her father-in-law and managed to escape.

3. The learned counsel for the petitioner has submitted that he has falsely been implicated in the present case mainly on account of certain matrimonial discord between the victim and her in-laws. The learned counsel has further submitted that the matter was infact thoroughly investigated by a Special Investigating Team (SIT) which had found that the accused was infact not present at the place where the rape had allegedly taken place. It is further submitted that the SIT also found that the allegations of the alleged abortion to be incorrect.

4. Opposing the petition, the learned State counsel assisted by counsel for the complainant has submitted that since the petitioner is specifically named in the FIR by the victim, no case for grant of bail is made out.
5. I have considered rival submissions addressed before this Court.
6. A perusal of the report of the SIT would show that the police had collected call detail records of the accused and had found that the aforesaid Rajinder Tiwari was present near Mansa Devi Mandir at the time of the alleged occurrence of 10.4.2018 where he had also got petrol filled up while using his credit card. It was further found that even as on 24.6.2018 i.e. the second incident of alleged rape, the petitioner was present at different shops as per the call detail records, tower location and as per the purchases made by him at different shops. The SIT also could not find any substance in the allegations of the alleged abortion of the victim.
7. Having regard to the fact and circumstances of the case and without commenting anything on the merits of the case lest it affects the trial in any manner, and while also noticing that the petitioner as on date has been behind bars since the last more than 3 months, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted that the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

30.10.2020

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No