

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

CRM-M-21999-2020
Date of decision: 24.08.2020

Jodha SinghPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Kulbhushan Raheja, Advocate for the petitioner.

Mr. M.S. Nagra, Asst. A.G., Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

The case has been taken up for hearing through video conferencing.

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') is for grant of regular bail to the petitioner in case FIR No.185 dated 16.07.2018 registered under Sections 376 and 450 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Sadar Ferozepur, District Ferozepur.

The above said FIR was lodged by Ranjit Singh who alleged that on 13.07.2018 at about 1.30 P.M. when he went to his house for lunch, he found the petitioner committing rape of his sister who is mentally retarded.

The petitioner, who is in custody since 07.04.2019, has filed the present (first) petition for grant of regular bail.

The petition has been opposed by learned State Counsel.

However, no reply has been filed on behalf of the respondent-State.

Custody certificate has been filed by learned State Counsel through e-mail, print out of which is taken on record.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. No offence has been committed by the petitioner. There was delay of more than 3 days in lodging of the FIR. The complainant and other witnesses namely Ranjit Singh, Dharam Singh, Balvir Singh, Gurnam Singh and Goma Singh have not supported the case of the prosecution. No useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petition may be allowed and the petitioner may be enlarged on regular bail.

On the other hand, learned State Counsel has submitted that the petitioner is accused of having committed rape on mentally retarded girl and in view of the accusation the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

Complainant Ranjit Singh examined during trial as PW-1 and PW-2-Dharam Singh, PW-3-Balvir Singh, PW-4-Gurnam Singh and PW-5-Goma Singh have not supported the case of the prosecution. Out of fifteen prosecution witnesses, six prosecution witnesses are yet to be examined. The trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. Keeping in view the facts and circumstances of the case but without commenting

on the merits of the case, I am of the considered view that the petitioner deserves grant of regular bail.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of requisite bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

24.08.2020

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No