

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

**CRM-M-23505-2020(O&M)
Date of decision: 17.11.2020**

Jaspal Singh @ Pala

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Ms. Riffi Birla, Advocate for the petitioner.

Mr. S.S. Cheema, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

The petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No. 96 dated 30.06.2017 registered under Section 376 IPC and Section 4 of the POCSO Act added later on, at Police Station Sadar Fazilka, District Fazilka.

Learned counsel for the petitioner submits that the petitioner has falsely been involved in the present case. The complainant has furnished an affidavit dated 30.04.2018 stating therein that although the FIR was got registered against the petitioner yet it was due to some misunderstanding.

Even now, at this stage, the complainant has moved an application dated 03.04.2018 (Annexure P-3) to the Senior Superintendent of Police, Fazilka, stating therein that some unidentified persons had committed

wrongful act with her minor daughter, who is mentally unstable.

On the other hand, learned State counsel while controverting the submissions made by the learned counsel for the petitioner, submits that the allegations against the petitioner are very serious and in case, he is enlarged on bail, every effort will be made by him to either tamper with the evidence or win over the witnesses. He points out that the petitioner has committed rape upon a 12 years aged mentally unstable girl of the complainant. As per the MLR, there are injuries on her abdomen and the hands of the girl were found tied with a rope. Thus, it is stated that the totality of the circumstances, does not warrant the grant of concession of bail to the petitioner.

It is contended that as the matter is pending trial, affidavit if any, executed by the complainant, has no legal authenticity and no benefit thereof can be derived by the petitioner.

I have heard the learned counsel for the parties.

As noticed above, the prosecutrix is yet to be examined. In the cases of sexual offences, the testimony of the prosecutrix is of the vital significance.

Therefore, I do not find any ground to grant him the concession of regular bail.

In view of the above, the present petition is dismissed.

(HARNARESH SINGH GILL)
JUDGE

17.11.2020

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No