

CRM-M-23542-2020 (O&M)

Through Video Conference

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

**CRM-M-23542-2020 (O&M).
Decided on: September 28, 2020.**

Satan Kumar @ Satan

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.A.P.Kaushal, Advocate,
for the petitioner.**

Mr.P.S. Walia, Asstt. A.G, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

CRM-24036-2020

For the reasons mentioned in the misc. application, the
same is allowed.

Annexure A1 is permitted to be taken on record.

Main Case

The present petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.71 dated 14.4.2017, under Sections 363, 366-A IPC (Sections 376 and 376-D IPC) added later on), registered at Police Station, Shimlapuri, District Ludhiana.

Learned counsel for the petitioner has submitted that the petitioner has been wrongly roped in the present case although his name never figured in the FIR. He has referred to FIR dated 14.4.2017, wherein the allegations which have been made are that the prosecutrix was taken to an unknown place by the unknown persons by alluring her and deception. Thereafter, under Section 164 Cr.P.C., the prosecutrix had made a statement (Annexure P2) before the Judicial Magistrate First Class, Ludhiana, on 24.6.2017, wherein she stated that she had gone with one Pawan Kumar and married Pawan Kumar on her own and that Pawan Kumar did not force her and that Pawan Kumar is innocent and Pawan Kumar should be released. Thereafter, another statement was made by the prosecutrix on 18.7.2017, vide Annexure P3, wherein again she stated that said Pawan Kumar has kept her in a house where one another person namely Pankaj was also there and Pawan states that Pankaj had married the prosecutrix. A small reference has been made qua petitioner at the end that he along with others followed her. Thereafter, she made another statement approximately after one year on 22.3.2018 after lodging of FIR vide Annexure P4, in which again a long story has been narrated by her but so far as petitioner is concerned, he has been named by making vague allegation that the petitioner along with some

others had forcibly committed rape upon her. Learned counsel for the petitioner has also pointed out from Annexure A-1, as per which according to the learned counsel for the petitioner, the petitioner was roped up in another case in which the allegations by the said prosecutrix was made against him and that FIR is prior to the present FIR and in that case also vide Annexure A-1 dated 4.8.2020, the petitioner has been granted bail by a Coordinate bench of this Court.

Learned counsel for the petitioner has further submitted that it is a case where there are no allegations against the petitioner either in the FIR or in the subsequent statements made by the prosecutrix except the statement which was made after about one year which is only a vague statement that petitioner along with some other person had committed rape upon her.

Learned counsel for the petitioner has further submitted that the petitioner is in custody since 7.1.2020 and the investigation of the case is already complete and now the case is fixed for prosecution evidence.

Learned State counsel has submitted that the petitioner has been named by the prosecutrix and the case is fixed for cross-examination of the complainant and therefore, the petitioner does not deserve the concession of regular bail.

I have heard the learned counsel for the petitioner as well as the learned State counsel through video conference.

So far as the custody period of the petitioner is concerned, the learned State counsel has not disputed the same. A perusal of

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the paper book shows that the FIR was lodged on 14.4.2017 against unknown persons and thereafter, the prosecutrix had deposed before the Magistrate that she had in fact gone voluntarily with one Pawan Kumar and again vide Annexure P3, stated the name of one Pawan Kumar and another person namely Pankaj. It was only in deposition made on 21.3.2018, that allegations were made against the petitioner along with some other persons and according to the learned counsel for the petitioner, the same are vague in nature.

Considering the totality of circumstances and keeping in view the custody period of the petitioner, I deem it fit and appropriate to admit the petitioner on bail. The present petition is allowed. It is ordered that the petitioner shall be released on bail on furnishing bail bond/surety bond to the satisfaction of the concerned trial Court/Duty Magistrate.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

September 28, 2020.
raj arora

JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No