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

**CRM-M-29058-2020 (O&M)
DATE OF DECISION: 05.10.2020**

Baljinder Singh

.....Petitioner

versus

State of Punjab

.....Respondents

CORAM:-HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Pankaj Garg, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

Mr. Atma Ram Gupta, Advocate for the complainant.

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ALKA SARIN, J.

Heard through video conferencing.

This is the second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.55 dated 06.03.2020 under Sections 376 and 506 of the Indian Penal Code, 1860 read with Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Sardulgarh, District Mansa, Punjab.

The petitioner had earlier approached this Court vide CRM-M No.21961 of 2020 for grant of regular bail under Section 439 of the Code of Criminal Procedure, 1973. Learned counsel for the petitioner in the said case had, after arguing for some time, sought permission to withdraw the petition and, hence, the said petition was dismissed as withdrawn.

The allegations in the FIR, in brief, are that on 24.10.2019, the petitioner committed rape upon the Prosecutrix against her wishes and consent. It was further stated in the FIR that after committing rape the petitioner had threatened the Prosecutrix not to disclose the said fact to anybody or else he would kill her. Thereafter, the Prosecutrix disclosed the facts to her family. The petitioner admitted to his guilt and donated an amount of ₹1,00,000/- to Gurudwara Sahib. However, the Prosecutrix felt burdened because of the occurrence and demanded justice be given to her. Further, it was stated in the FIR that an offence of rape cannot be compromised and, therefore, FIR be registered against the petitioner herein.

The only ground which has been contended by learned counsel for the petitioner in the present petition is that the matter has since been compromised between the parties and, hence, the petitioner be granted bail. The petitioner has placed on record the Panchayati compromise dated 22.07.2020, which is allegedly signed by the parties.

Notice of motion.

On the asking of the Court, Mr. Ramandeep Sandhu, Sr. DAG, Punjab has put in appearance through video conferencing and accepts notice on behalf of the State. He, on instructions from ASI Avtar Singh, has stated that earlier too, after the execution of the alleged compromise dated 22.07.2020, the petitioner had filed a petition for grant of bail. However, the same was got dismissed as withdrawn as is apparent from the order dated 26.08.2020 (Annexure P-4).

I have heard learned counsel for the parties.

In the present case, the Prosecutrix in the FIR has specifically made an allegation that the petitioner had committed rape and, thereafter, threatened to kill her in case she disclosed the said fact to anybody. Further, it has been stated in the FIR that the petitioner had admitted his guilt and donated an amount of ₹1,00,000/- to Gurudwara Sahib. However, the Prosecutrix had felt burdened because of the occurrence and, therefore, sought justice and prayed for registration of the FIR. With the present petition, a compromise dated 22.07.2020 has been annexed as Annexure P-3. However, after the execution of the alleged compromise dated 22.07.2020 (Annexure P-3), the petitioner had approached this Court in CRM-M No.21961 of 2020. The said matter came up for hearing on 26.08.2020, on which date learned counsel for the petitioner had, after arguing for some time, sought permission to withdraw the petition. The said petition was dismissed as withdrawn.

In the present petition, yet again reliance has been placed on the same compromise dated 22.07.2020. Merely on the basis of the said compromise, the petitioner cannot be granted the concession of bail inasmuch as even a perusal of the FIR shows that earlier also the petitioner had admitted his guilt and donated an amount of ₹1,00,000/- to Gurudwara Sahib. However, despite the said fact the Prosecutrix had prayed for registration of FIR as she has stated that the offence of rape cannot be compromised. Paragraphs 1 to 3, 7 and 8 of the present petition are identical to averments made in the earlier petition i.e. CRM-M No.21961 of 2020. No change in circumstances has been brought out.

A grievous offence like rape is an offence against the society and merely on the basis of a compromise the petitioner cannot be granted

bail. Further, even in the FIR itself the Prosecutrix has stated that though the petitioner had admitted his guilty and donated ₹1,00,000/- to the Gurdwara Sahib, however, she felt burdened because of the occurrence and sought the registration of the FIR.

Keeping in mind the gravity of the offence, this Court is of the opinion that the accused i.e. the petitioner cannot be granted bail on the ground that there has been a compromise between the parties. Resultantly, the present petition is dismissed.

It is, however, made clear that nothing observed herein shall be treated as an expression of opinion on the merits of the case.

(ALKA SARIN)
JUDGE

05.10.2020
Yogesh Sharma

NOTE:

Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO