

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

CRM-M-34117-2020 (O&M)
Date of Decision:- 4.11.2020

Jaswinder Kumar @ Kaka

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rajesh K. Dadwal, Advocate for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in a case registered vide FIR No.79 dated 24.7.2018 under Sections 366/376-D/342/120-B IPC at Police Station Mehtiana, District Hoshiarpur.
2. The FIR was lodged at the instance of the prosecutrix wherein she has alleged that she was having an affair with Jaswinder Kumar who had proposed to marry her. It is alleged that on 25.6.2018 said Jaswinder Kumar asked her to come in the street and upon his asking she went outside where Jaswinder Kumar was present along with an unknown youth and they called another youth and made her sit in a car and took her away to the house of Jaswinder Kumar where she was kept for 2 days and was raped by him without her consent. It is alleged that later she was taken to Amritsar where she was kept in a rented house. It is further alleged that Jaswinder Kumar, however, was arrested by the police at Amritsar and upon which he made a

phone call to his friends asking them to take care of the prosecutrix and the said four friends, one of who was referred to as Sunny forcibly, gave her intoxicant tablets and raped her turn by turn.

3. The learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that infact it is a case where admittedly the victim was a major, aged about 19 years and had left her house on her own accord. The learned counsel has submitted that it was made on account of the fact that the petitioner was falsely implicated in another case under NDPS Act and that she returned home and under pressure of her parents the instant FIR came to be lodged wherein allegations have been levelled against petitioner and four other persons regarding commission of rape. The learned counsel for the petitioner has submitted that the falsity of the FIR would be evident from the fact that when the statement of the victim was recorded in terms of Section 164 Cr.P.C. she did not state a word against the other four co-accused. The learned counsel has further submitted that the petitioner, in any case, deserves the concession of bail on grounds of parity since other four co-accused have already been granted bail.
4. Opposing the petition, the learned State counsel has submitted that since the petitioner is specifically named in the FIR and also in the statement under Section 164 Cr.P.C. wherein specific allegations of rape have been levelled, no case for bail is made out. The learned State counsel has, however, informed that the petitioner has been behind bars since the last about 2 years and 3 months and that till date only 7 out of the cited 24 prosecution witnesses have been examined.
5. I have considered rival submissions addressed before this Court.

6. Having regard to the facts and circumstances of the case and while also bearing in mind the age of the victim, who is a major and seems to have left her house on her own accord and that the petitioner has already been behind bars since the last about 2 years and 3 months whereas the conclusion of trial is likely to take some time as till date only 7 out of the 24 prosecution witnessses have been examined, further detention of the petitioner will not serve any useful purpose.
7. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

4.11.2020

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No