

222

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

CRM-M-2612-2021

Date of Decision: 19.04.2021

Gursharan Singh**.. Petitioner****Vs.****State of Punjab****..Respondent****CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Parminder Singh-I, Advocate for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail, pending trial in case FIR No.179 dated 26.10.2020 registered under Sections 376 and 506 IPC at Police Station Civil Lines, District Bathinda. The petitioner is in custody since his arrest on 27.10.2020.

The FIR was registered on the basis of statement of prosecutrix and the allegations noticed by the Addl. Sessions Judge, Bathinda in the order dated 08.01.2021, while declining the bail application of petitioner, read as under:

“As per the prosecution case, this case was registered on the basis of statement of complainant/prosecutrix with the allegations that her husband Rajwinder Singh was serving as ASI in Punjab Police, who had now been dismissed from service. From the very beginning, they had been working as helping hand to police. Some persons, known to them, were dealing in heroin/narcotic trade. They gave information to this effect to higher police authorities, who told them to contact petitioner DSP Gurdarshan Singh of STF, Bathinda. Thus, the complainant became familiar with DSP Gursharan Singh, who used to have talk with prosecutrix on mobile phone under some or the other pretext. He invited her to different hotels, but she

refused. On this DSP Gursharan Singh threatened to involve her and her family members in some case of narcotics. On her refusal, said DSP got registered case FIR No.118 dated 22.07.2020 U/s 21/25 of NDPS Act at P.S. Nehianwala against complainant, her husband and son Harpreet Singh. Being scared, the prosecutrix succumbed to the wishes of petitioner. On being called by DSP Gursharan Singh, on 13.09.2020 she went to Aashiana Hotel at about 3:00/4:00 p.m., where in room No.5, he forcibly developed physical relations with her. Taking benefit of her fear, even after 13.09.2020, petitioner DSP Gursharan Singh committed rape upon prosecutrix in Aashiana Hotel and every time, petitioner managed to get her entered in said hotel from rear entry/gate. On the day of occurrence i.e. 26.10.2020 petitioner DSP Gursharan Singh called her to room no.13 of Ashiana Hotel by making phone call from his mobile phone No.73474-95495 to her mobile phone No.98154-25925. When she reached there, petitioner DSP Gursharan Singh tried to commit rape with her, but, she raised alarm and escaped from the spot. She narrated the entire occurrence to her husband and both of them informed police about the incident.”

Learned counsel for the petitioner has argued that admittedly the complainant was earlier working as informant for police, but was later on arrested in case FIR No.118 dated 22.07.2020, under Sections 25 and 21 NDPS Act, 1985, at Police Station Nahianwala Bathinda, as this fact is contained in the FIR itself. He submits that after her release on bail in the said case, she lodged this present FIR No.179 dated 26.10.2020, under Sections 376 and 506 IPC to falsely implicate the petitioner. He submits that not only the allegations of rape as contained in the FIR are improbable, but as the investigation of the case is also complete, therefore, the further custody of the petitioner may not be necessary. He prays for bail.

The prayer is opposed by learned State counsel assisted by SI Karamjit as well as the counsel for the complainant on the ground that the petitioner has not disputed this fact that he visited the hotel to meet the complainant. According to them, the offence is serious and specific allegations have been levelled by the complainant against the petitioner.

However, it is not disputed by the learned State counsel that the charges were framed on 17.02.2021, but no prosecution witness has been examined so far. She further states that the case is coming up for recording prosecution evidence before trial Court on 20.04.2021.

After hearing the learned counsel for the parties, considering the above background, custody of the petitioner and the fact that though the charges were framed on 17.02.2021, but no prosecution witness has been examined so far, therefore, the trial is likely to consume considerable time to conclude. Apart from it, the belligerent re-emergence of pandemic COVID-19 in the region has once again forced the states of Punjab, Haryana and U.T. Administration, Chandigarh to impose various restrictions to clamp down the contagion, and it would further delay the conclusion of trial.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate Bathinda.

The petition is allowed.

19.04.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes	No
Yes	No