

Gurpartap Singh alias Leela

..... Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Lakhwinder S. Sidhu, Advocate, for the petitioner.

Ms. Amarjit Kaur Khurana, Deputy Advocate General, Punjab.

Mr. J.K. Singla, Advocate, for the complainant.

Rajesh Bhardwaj, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.298 dated 10.12.2020, under Sections 376, 506 IPC registered at Police Station Bhikhi, District Mansa.

As per the factual matrix of the case, the present FIR was registered by the prosecutrix on the basis of the allegations contained therein. It is alleged that the prosecutrix is mother of two sons, who are living in Malaysia. The petitioner accused used to supply milk in her house, who told her that his wife has died and he allured her and thereafter, committed rape with her many times. Taking benefit of the same, he obtained signatures of the prosecutrix on many blank papers as well. It is alleged that the petitioner accused sold the house of the prosecutrix without her consent and on her resistance she was beaten as well as threatened to be killed. The FIR was registered for taking legal action against the accused.

The investigation commenced and the petitioner was arrested on

13.12.2020. He approached the learned Sessions Judge, Mansa for grant of bail, which was declined vide its order dated 15.1.2021. Aggrieved by the same, the petitioner approached this Court by filing the present petition.

Learned counsel for the petitioner vehemently contends that the present FIR is nothing but a pressure tactic to solve the civil dispute between the prosecutrix and the petitioner. He submits that both the petitioner and the prosecutrix are more than 50 years of age. By no stretch of imagination, the petitioner can be said to have allured the prosecutrix and committed rape with her as alleged in the FIR. He has drawn attention of this Court to the enquiry conducted in the allegations made by the DSP, Mansa, wherein after a detailed enquiry, the report dated 11.9.2020 was submitted and it was concluded that no action is required to be taken on the application filed. He has further drawn the attention of this Court to the civil suit filed by the prosecutrix against the petitioner for permanent injunction. Copy of which has been annexed as Annexure P-4, which was filed on 31.8.2020. He submits that the present FIR was registered on 10.12.2020 showing that the same has been filed with malicious intentions to settle the civil dispute already pending between the petitioner and the prosecutrix. He submits that the petitioner is behind bars since 13.12.2020. The prosecutrix has already been examined so there cannot be any apprehension to be alleged on the part of the petitioner in influencing the witnesses and thus, influence the trial.

Learned counsel for the complainant has vehemently opposed the submissions made by learned counsel for the petitioner and submitted that though the prosecutrix is a matured lady but the allegations of rape and

threatening have been specifically alleged and she has supported the case of the prosecution while appearing as PW-1 and hence, no case for bail is made out.

Learned State counsel has opposed the submissions made by the counsel for the petitioner and submitted that from the reading of the FIR, it is apparent that after investigation, it was found that physical relations were made by the petitioner with the prosecutrix by misleading the prosecutrix and extending threat to her. She has brought to the notice of the Court that there are total 16 prosecution witnesses, out of which 2 witnesses have been examined including the prosecutrix. She submits that the prosecutrix has been examined and she has supported the case of the prosecution, hence, the petitioner does not deserve any concession of bail.

Heard.

From the facts and circumstances of the case, it is apparent that both the petitioner and the prosecutrix are more than 50 years of age. As per the facts, there is civil litigation also pending between the parties. On the other hand, the prosecutrix already stands examined. The veracity of the allegations and counter-allegations would be established only by the trial Court on the basis of the evidence produced by the parties.

In the overall facts and circumstances, this Court without going into the merits of the case, the Court finds that the petitioner is behind bars since 13.12.2020 and trial of the case will take sufficient time and no useful purpose would be served by keeping him in custody for such a long time, especially when the prosecutrix has already been examined. Thus, the learned counsel for the petitioner has been able to make out a case for grant

of regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

9.11.2021
sharmila

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No