

226 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32881-2021

Date of decision : 15.12.2021

Jatinder Kumar @ Jaj Singh @ Jajju

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr. Rahul Arora, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

The present petition is filed under Section 439 Cr.P.C. by petitioner- Jatinder Kumar @ Jaj Singh @ Jajju seeking grant of regular bail in case FIR No.19 dated 27.02.2021 registered under Section 458, 376 & 506 IPC (offence under Section 328 IPC added later on), at Police Station Arniwal, Fazilka, District Fazilka.

The FIR has been registered on the statement of the prosecutrix wherein it was alleged that she is a resident of Arniwala Sheikh Subhan, Tehsil and District Fazilka and doing household work. She is married and have two sons. The accused namely Jatinder Kumar @ Jaj Singh @ Jajju was residing near her house and was keeping bad eye on her. In the mid-night of 22.02.2021 at about 12, the accused forcibly entered her house while she was asleep. He made her unconcious by making her smell some intoxicant, thereafter forcibly committed rape with her without her consent. When her husband Mangat Singh reached the spot the accused gave push to her husband and absconded from the spot. The FIR was lodged to take the

action against the accused.

The investigation commenced and the petitioner was arrested on 28.02.2021. The petitioner has approached the learned Sessions Judge, Fazilka for the grant of bail. After hearing the parties, the bail was declined by the Sessions Judge, Fazilka vide order dated 15.07.2021.

Aggrieved by this, the petitioner has approached this Court for grant of regular bail.

Learned counsel for the petitioner vehemently contends that the prosecutrix is 40 years of age and the mother of two children, whereas the petitioner is a young boy of 24 years of age. He submits that the allegations in the FIR are totally false and frivolous and the petitioner is falsely implicated in the same. He submits that after the registration of the FIR the prosecutrix was medically examined and the ocular version of the prosecutrix is not corroborated medically. He has drawn the attention of this Court to the medical report appended with this petition as Annexure P-4, which would show that there is no evidence of intercourse to support the allegations of rape with the prosecutrix. He has also appended the forensic DNA report as well as Annexure P-5, which would show in its conclusion that no human semen was detected in the Vaginal Swabs belonging to the prosecutrix. He submits that now the trial Court is seized of the matter and the prosecutrix had been granted four opportunities for depositing before the trial Court. However, she intentionally do not appear before the trial court and thus avoid her deposition in the Court just to prolong the trial. He submits that the case was listed before the trial Court yesterday i.e. 14.12.2021 and the prosecutrix again did not turn up and finally the trial Court has issued her non-bailable warrants to secure her presence. He

submits that out of 16 witnesses only one witness has been examined who belongs to this village and he has also not supported the case of the prosecution.

Learned State counsel submits that there are specific allegations against the petitioner in the FIR and however she also acknowledges that out of 16 witnesses only one witness has been examined, whereas the prosecutrix has not made herself available for deposition before the trial Court so far.

Heard.

The petitioner is behind bar since February 28, 2021. The prosecutrix has so far been avoiding her presence before the trial Court just to prolong the trial. The veracity of the allegations would be appreciated by the trial Court on the basis of the evidence produced before it by the parties.

In the totality of the facts and circumstances of the case where the challan has already stands presented and the trial of the case will take sufficient time to conclude and no useful purpose will be served by keeping the accused in custody for such a long period, I find that learned counsel for the petitioner succeeds in making out a case for grant of bail.

The present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Fazilka. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(**RAJESH BHARDWAJ**)
JUDGE

15.12.2021

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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No