

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

209

CRM-M-39358 of 2020

Date of Decision: 24.02.2021

Gurtej Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

Present: Mr. Karanjeet Singh Brar, Advocate,
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

MANJARI NEHRU KAUL, J.

The instant petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner, in case FIR No. 241 dated 18.10.2019 under Sections 376-D, 506 IPC of 1860, registered at Police Station Civil Lines, Bathinda, District Bathinda.

Learned counsel for the petitioner inter alia contends that the petitioner has been in custody since 18.10.2019 and the prosecution evidence has still not begun. He further contends that a perusal of the FIR in question reveals that an unbelievable version has been put forth by the prosecutrix who admittedly is a married woman. It is submitted that the alleged occurrence took place inside the house of the prosecutrix which is in a thickly populated area and it could not be believed that the sexual assault of the prosecutrix would have gone un-noticed by her neighbours. He further contends that the case of the prosecutrix is further belied not only from the DNA report which did not show any male DNA either on the clothes or on the vaginal swabs of the complainant, but even as per the MLR report

annexed as Annexure P-2 no external injuries were found on any part of the body of the complainant at the time of medical examination which was conducted soon after the alleged occurrence, hence a big question mark arose qua the authenticity of the allegations of rape made by the prosecutrix.

It has further been submitted that, in fact, the petitioner and the prosecutrix were neighbours and there was a history of animosity between them, which was the reason behind his false implication in the FIR in question. He, thus, prays that he be extended the concession of regular bail as he has been in custody since 18.10.2019.

Per contra, learned State counsel while opposing the grant of regular bail to the petitioner on instructions from ASI Mukhtiar Singh submits that there are serious allegations levelled against the petitioner of raping a married woman while she was all alone at her home. He further submits that the prosecution evidence is likely to commence in the near future.

However, learned State counsel has fairly conceded that the petitioner is on same footing as the co-accused who has been extended the concession of bail by order dated 05.11.2020 passed in CRM-M-34587 of 2020.

Heard.

Keeping in view the fact that the petitioner has been in custody since 18.10.2019 and due to the outbreak of the pandemic Covid-19 the trial is unlikely to conclude in the near future, I deem it a fit case to grant the concession of regular bail to the petitioner. Therefore, without expressing anything on the merits of the case, the instant petition is allowed and the petitioner is ordered to be released on regular bail to the satisfaction of the

trial court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

24.02.2021
manju

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No