

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

212 CRM-M-41283-2020
Date of decision: 11.01.2021

Mangal Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vipin Mahajan, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab
for the State-respondent.

SUVIR SEHGAL J. (ORAL)

The hearing of this petition has been taken up through video conferencing on account of outbreak of Covid-19 Pandemic.

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, praying for grant of regular bail to the petitioner in case bearing FIR No.35, dated 29.04.2020, registered under Sections 376 and 506 of Indian Penal Code at Police Station Tibber, District Gurdaspur, Annexure P-1.

As per the version of the prosecution, the above mentioned FIR was lodged on the statement of the prosecutrix to the effect that her father

Mangal Singh (present petitioner) who is a labourer, has been forcibly having sexual intercourse with her for the last 4 to 5 months. On 29.04.2020, when she was alone at home, her father attempted to rape her but her mother came at that time and he ran away. The statement of the prosecutrix was recorded under Section 164 Cr.P.C. on 01.05.2020. She refused the DNA examination. The petitioner was arrested on 30.04.2020.

Counsel for the petitioner has contended that the prosecution case is based on falsehood. He has argued that the prosecutrix, who is aged 19 years, was involved in relationship with one Gurpreet Singh, who is a resident of adjoining village and she became pregnant from him. According to the counsel, the mother of the prosecutrix was in favour of the relationship and the petitioner used to oppose the same as a result of which there was a friction between him and his wife. He submits that on the fateful day, a fight took place between the petitioner and his wife, when he came to know about the pregnancy of his daughter. He further submits that the prosecutrix got married to Gurpreet Singh in June, 2020 and a child was born a few months thereafter.

Per contra, learned State counsel upon instructions from ASI Gurnam Singh, has opposed the petition. He has argued that there are very serious allegations against the petitioner who was caught in the unfortunate act by his wife. He has submitted that the prosecutrix has supported the allegation both in her statement recorded before the Magistrate as well as in the Court. Still further, he submits that there is a

possibility that the accused-petitioner, if released on bail, may try to influence the prosecution witnesses. He has referred to the status report filed by way of affidavit dated 05.01.2021 by the Deputy Superintendent of Police, City Gurdaspur, which is taken on record, to submit that the challan was presented on 25.06.2020, charge was framed on 19.10.2020 and three out of the 15 prosecution witnesses have been examined.

I have considered the rival submissions of the parties.

The entire narration of the allegations by the daughter against the father and *vice versa* sounds strangely unusual. However, no sane daughter would level such serious allegations against her father. It is not believable that a daughter will accuse her father of repeated sexual assault to hide her pregnancy and an affair. This Court is shocked at the story put forth on behalf of the petitioner, who has no qualms in maligning his daughter to secure bail. The defence being taken by the accused-petitioner, deserves to be out rightly rejected.

The allegation levelled by the daughter against her father in the FIR has not only been duly supported by her in her statement recorded before the Magistrate but also during the course of her examination in the Court, as is apparent from her testimony appended as Annexure P-2 with the petition. Despite extensive cross-examination, the evidence of the prosecutrix has remained unshaken. Her statement has been duly supported by her mother, who appeared as PW-2 (appended as Annexure P-3 with the petition) and who is none other than the wife of the petitioner-accused.

The Hon'ble Supreme Court in *State of Punjab Vs. Gurmeet Singh*, (1996) 2 SCC 384 has held that the evidence of victim in cases of sexual assault etc. is enough for the conviction of the accused and the same does not require any corroboration. The Apex Court has placed the statement of a prosecutrix on a higher pedestal than that of an injured witness.

Keeping in view the above facts and circumstances, the nature of allegations and the gravity of the offence, this court does not deem it appropriate to grant regular bail to the petitioner.

The petition is, accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

11.01.2021

pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No