

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

CRM-M-535-2022

Date of Decision: 01.09.2022

Jaswinderpal Singh @ Vijay

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vinay Kumar, Advocate, for the petitioner.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.72 dated 11.9.2021, registered under Sections 354-B, 376, 511 IPC, at Police Station Fatehgarh Churian, District Batala.

As per factual matrix of the case, the present complaint was made by the prosecutrix (name concealed). It was alleged that her marriage took place with Gurpreet Singh about 11 years ago. Out of the wedlock, she has two children, who are of 10 years and 6 years old. It was alleged that she was living with her parents from the last 4 years as there was a dispute between her and her husband. On 6.9.2021 at about 11:00 am, when she was alone at home, Jaswinderpal Singh @ Vijay i.e. the petitioner under the influence of alcohol entered her room and tried to rape her. She raised alarm and on the gathering of the neighbours, he escaped from the spot. The request was made to register the FIR and take the legal action against the culprit. On the basis of the complaint, the FIR was lodged and investigation commenced. The petitioner was arrested on 16.9.2021. He approached the

Court of learned Addl. Sessions Judge, Gurdaspur for grant of bail, who, after hearing the parties, declined the same vide order dated 27.10.2021. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

Learned counsel for the petitioner has submitted that the petitioner and the prosecutrix both are of the age of the majority. He has submitted that false implication of the petitioner is evident from the facts and circumstances of the case. He has submitted that the alleged occurrence has taken place on 6.9.2021, whereas, the present FIR was registered after due deliberation on 11.9.2021 i.e. after about five days. He has submitted that the prosecutrix is a married woman and mother of two children and has levelled allegations of attempt to rape against the petitioner in the broad day light, which is totally improbable. He submits that the ocular version put forth by the prosecution is not medically corroborated. He has submitted that the petitioner has no criminal antecedents. He has further submitted that even otherwise the material witnesses including the prosecutrix already stands examined, hence, there is no possibility of the petitioner of influencing the prosecution witnesses. He has submitted that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

However, learned State counsel has opposed the submissions made by learned counsel for the petitioner. On instructions from ASI Varinder Singh, he submits that there are specific allegations against the petitioner, thus, his complicity is beyond doubt in this case. However, he submits that the FIR was lodged after about 5 days of the occurrence. He submits that the Investigating Agency wanted to get the medical

examination of the prosecutrix, however, she did not give her consent for the same. He has submitted that the prosecutrix is a married woman and mother of two children. He also submits that as per the information provided to him, the petitioner has no criminal antecedents. He has submitted that out of total 16 prosecution witnesses, 4 witnesses already stands examined including the prosecutrix, who has supported the case of the prosecution.

Heard.

Admittedly, the petitioner and the prosecutrix both are of the age of the majority. The prosecutrix is a married woman and mother of two children. The occurrence in question took place on 6.9.2021 and the FIR was lodged five days thereafter. There is no medical examination of the prosecutrix as she had refused for the same. The material witnesses including the prosecutrix already stands examined and hence, there is no possibility of the petitioner for tampering or influencing the prosecution evidence. There is nothing on record to show that the petitioner has any criminal antecedents. The veracity of the allegations would be evaluated by the trial Court only after conclusion of the trial. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficient long time for its conclusion.

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.

01.09.2022		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No