

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(221)

CRM-M-1764-2022

Date of Decision: 23.2.2022

Kulwinder Singh @ Kinda

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Prabhjot Singh Chahal, Advocate for
Mr. Kamal Narula, Advocate for the petitioner.

Ms. Sakshi Bakshi, A.A.G., Punjab.

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.

The present petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in FIR No.11 dated 3.3.2020 registered under Sections 457, 354, 354-A, 506, 120-B IPC at Police Station, Amit Khas, District Fazilka.

As per facts of the case, present FIR was lodged by the prosecutrix (name concealed). The crux of the allegations is that prosecutrix is 20 years of age and she studied up to 10+2. About 6 months before the incident, one boy came to the grocery shop situated near their house. He saw the prosecutrix standing there. Thereafter, one boy namely Sarabjit Singh came to the prosecutrix and told her that the boy who had come to the grocery shop wanted to be friendly with her to which the prosecutrix refused. Sarabjit Singh told the prosecutrix that the name of said boy was Kulwinder Singh (present petitioner). Thereafter on 29.2.2020 when the prosecutrix went to sleep after having meal, she found Kulwinder Singh

sitting on her bed. He started touching her body parts in order to outrage her modesty and other boys namely Sarabjit Singh and Gurdeep Singh were standing outside. Despite her resistance Kulwinder Singh did not stop. When she raised alarm the boys threatened the prosecutrix to be killed in case she disclosed anything about the incident. A prayer was made to take action against the culprits.

The investigation commenced and the petitioner was arrested on 29.10.2021. He approached learned Addl. Sessions Judge, Fazilka for grant of bail, however, after hearing the parties, the same was declined vide order dated 23.12.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner is innocent and has been falsely implicated in the present case. He submits that from the bare reading of the FIR it is apparent that the prosecutrix has put up a false and frivolous story only in order to harass the petitioner. He submits that petitioner is behind bars since 29.10.2021 and hence deserves to be released on bail.

On the other hand, learned State counsel has opposed the submissions made by counsel for the petitioner. It is submitted that there are specific allegations against the petitioner and the co-accused. It is submitted that the matter is pending trial and the antecedents of the petitioner do not warrant the grant of bail to him. State counsel has placed on record custody certificate of the petitioner which would show that besides this case there are 3 other cases against the petitioner i.e. FIR No.33 dated 11.2.2021 under sections 394, 452 IPC and sections 25, 54, 59 of Arms Act, registered at Police Station, City Kapurthala, FIR No.56 dated

8.3.2021 registered under sections 25, 54, 59 of Arms Act at Police Station, City Kapurthala and FIR No.38 dated 9.3.2021 registered under sections 379-B, 341, 120-B, 201 IPC and sections 25, 54, 59 of Arms Act at Police Station, Dharamkot.

I have heard learned counsel for the parties at length and have gone through the records carefully.

The prosecutrix has levelled specific allegations against the petitioner. Besides this, custody certificate of the petitioner would show that there are 3 more cases pending against the petitioner. A perusal of the custody certificate would show that all these FIRs were registered against the petitioner prior to the present FIR. Antecedents of the petitioner show that he is a habitual offender. The probability of tampering with the prosecution evidence cannot be ignored in view of the attending circumstances of the present case.

The present petition being devoid of any merit is accordingly dismissed.

(RAJESH BHARDWAJ)
JUDGE

23.2.2022

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