

**110+214 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-2791-2022 (O&M)

Date of Decision: 11.7.2022

Kulbir Singh Kulvir Singh Sandhu

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Amaninder Singh Sekhon, Advocate, for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

CRM-21868-2022

Application is allowed and the Annexures P-6 to P-8 are taken on record.

Main case

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.40 dated 22.5.2021, registered under Section 376 IPC, at Police Station Sadiq, District Faridkot.

As per factual matrix of the case, the FIR in question was lodged by the prosecutrix herself. The sum and substance of the allegations made by the prosecutrix in the FIR is that she was 32 years of age and has two female children. Her husband is doing agriculture work and also keeping milking animals. On 25.2.2021, Kulbir Singh i.e. the petitioner surrounded her in cattle shed and started forcing upon her. On her resistance, he escaped. The accused was a drug addict and lived in the neighbourhood of the prosecutrix. It was alleged that he kept dangerous weapons. Thereafter, on 26.2.2021, the accused forcibly raped her by

pointing revolver to the prosecutrix and he made video of the occurrence in the mobile phone. He started blackmailing the prosecutrix on the threat of making the video viral. On her refusal to make physical relations with the accused, he used to beat her. Thereafter, on 17.3.2021, the accused forcibly snatched her gold necklace and ear rings weighing 36 grams and gave her beatings. As the accused kept on blackmailing the prosecutrix, she had no option then to lodge the FIR for taking legal action against the accused. On registration of the case, investigation commenced and the accused was arrested on 15.7.2021. The petitioner approached the learned Additional Sessions Judge, Faridkot for grant of bail, who after hearing the parties, declined the same vide its order dated 6.1.2022. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition for grant of regular bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present FIR. He has submitted that the prosecutrix is a married woman and mother of two children and she has clandestinely implicated the petitioner in this case. He submits that on the complaint filed by the prosecutrix, enquiry was conducted and it was found that all the allegations pertaining to snatching of gold articles, demanding money and making video of the prosecutrix were false, rather it was found that the prosecutrix and the petitioner were in consensual relationship. However, as there were allegations of rape, the FIR was registered only under Section 376 IPC. He has submitted that during the investigation, the swabs were taken for DNA test and MLR was also conducted. On the receipt of DNA report, it was concluded that no human

semen was detected on the swabs and smear slides which were stated to be of the prosecutrix. He has further submitted that the final opinion of the doctors were taken after the receipt of DNA report and the doctors gave a very vague opinion without any authentic evidence on record by opining “that on analysis of this report, the possibility of intercourse can still not be ruled out”. He submits that the medical opinion given also is not conclusive regarding offence alleged against the petitioner. He submits that the petitioner has no criminal antecedents as he has never been involved in any of the criminal case on the earlier occasion. He submits that even otherwise, the prosecution has examined the prosecutrix, wherein, she has reiterated the bald allegations made in the FIR. He has submitted that as the prosecutrix already stands examined, there cannot be any apprehension projected on the part of the petitioner for tampering with the evidence. He submits that from the perusal of the evidence produced by the prosecution except the oral allegations made by the prosecutrix, there is no other evidence corroborating her allegations and thus, no offence under Section 376 IPC is attracted. He submits that in view of the overall facts and circumstances and the fact that the petitioner is behind bars since 15.7.2021, he deserves to be granted bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner and submits that there are specific allegations against the petitioner. She submits that the prosecutrix already stands examined by the trial Court and she has supported the case of the prosecution.

Heard.

It is apparent that the petitioner is behind bars since 15.7.2021. There is nothing on record showing any criminal antecedents of the petitioner. The prosecutrix is major and also stood examined by the trial Court. DNA report has also been produced on record, which would reveal that no human semen was detected on the swabs taken.

The veracity of the allegations would be evaluated by the trial Court only after conclusion of the trial. In the overall facts and circumstances of the case, I am of the opinion that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial is likely to take time in 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.

11.7.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No