

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

220

CRM-M-41422 of 2022
Date of decision:22.08.2022

Satyam

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rajeev Duggal, Advocate for the petitioner.

Ms. Kanica Sachdeva, AAG, Punjab.

SUVIR SEHGAL J.

This is the first petition filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No.78 dated 23.05.2021 registered under Sections 363, 366 and 376 of IPC, 1860, at Police Station Balongi, SAS Nagar Mohali, Punjab, Annexure P-1.

As per the prosecution, FIR, Annexure P-1, has been lodged on the statement of 18 year old prosecutrix on the allegation that on 21.05.2021 at about 07.00 am, her boyfriend, who wanted to marry her, came in an auto with two unknown boys and when she refused to accompany him, he forcibly took her along and destroyed the sim of her cell phone. Her boyfriend-Satyam (present petitioner) took her to a temple, where his parents, relatives and a lawyer were waiting and they

forcibly made her sign some documents and told her that she is married. However, no *pheras* were performed. She was taken to a village in U.P. by bus, where Satyam received a call from his parents, who told him that the parents of the prosecutrix have consented to their marriage and both of them reached back home on 23.05.2021, where Satyam assaulted and raped her. At about 09.30 am, her parents reached there and when she was not allowed to accompany them, her father took her from there on some pretext.

Counsel for the petitioner urges that the prosecutrix has been examined and there are inconsistencies in her statement. He submits that she had accompanied the petitioner of her own and by making a reference to the undertaking dated 21.05.2021, Annexure P-2, he contends that she wanted to marry the petitioner. He submits that as the material prosecution witnesses have been examined, the petitioner, who is in custody since 24.05.2021, deserves to be enlarged on bail.

Per Contra, State counsel, upon instructions, has opposed the petition on the ground that the nature of allegations levelled against the petitioner are serious. She has filed custody certificate dated 20.08.2022, which is taken on record.

I have heard counsel for the parties and considered their respective submissions.

Prosecutrix has levelled allegation of sexual assault against the petitioner in the FIR, which has been duly supported by her in her statement under Section 164 of Cr.P.C. as well as in her testimony. The undertaking, Annexure P-2, relied upon by counsel for the petitioner will

not help him as the prosecutrix has stated that she was forced to sign some documents. Minor variation in the statement of the prosecutrix regarding the incident is immaterial as the prosecutrix has withstood extensive cross-examination. It has been held by the Supreme Court in *State of Punjab versus Gurmit Singh (1996) 2 SCC 384*, that cases of sexual assault are to be handled by the Courts with utmost sensitivity and the Court should not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature.

Keeping in view the totality of the facts and circumstances, the gravity of the offence allegedly committed by the petitioner and the fact that the prosecutrix has been consistent with the accusation of sexual assault, this Court is not inclined to grant bail to the petitioner during the pendency of the trial.

Petition is sans merit and is hereby dismissed.

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

22.08.2022
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(SUVIR SEHGAL)
JUDGE

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