

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(216)

CRM-M-43822-2022
Date of Decision: 05.12.2022

Gurmit Singh

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr.Pratham Sethi, Advocate for the petitioner.

Mr. Karunesh Kaushal, A.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.158 dated 3.7.2022 under sections 376(2)(h), 376(2)(k), 506 I.P.C, registered at Police Station, City Gurdaspur, District Gurdaspur.

As per factual matrix, a complaint was lodged by the prosecutrix herself, wherein it was alleged that she was a married woman and had matrimonial dispute and on account of which she went to lodge the FIR. She was already in family way. She approached the police for lodging FIR, however, Gurmit Singh (petitioner) who was posted as Superintendent of Police, Gurdaspur took disadvantage of the same and by misusing his authority, he established physical relations with the prosecutrix. A request was made to take legal action against the culprit.

On the basis of the complaint, present FIR was lodged and investigation commenced. Petitioner was arrested on 5.7.2022. He approached learned Addl. Sessions Judge, Gurdaspur for grant of bail,

however, after hearing the parties, the same was declined vide order dated 9.9.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned senior counsel for the petitioner vehemently contends that petitioner is a responsible senior police officer, who has been made scapegoat by the prosecutrix. It is submitted that false implication of the petitioner is writ large from the very fact that the prosecutrix has also lodged similar nature of FIRs against various persons details of which have been given in Annexures P-3 to P-5. In all these cases the prosecutrix during her examination before the Trial Court did not support the case of prosecution and thus was declared hostile. It is submitted that this is the 4th FIR lodged by the prosecutrix and in this case as well she did not support the case of prosecution and thus was declared hostile. It is submitted that the respondent-State keeping in view the gravity of offence constituted a S.I.T which carried out investigation in this case and then challan was presented. It is further submitted that the factum regarding the prosecutrix being the habitual litigant is writ large. Learned senior counsel further submits that the prosecutrix is of the age of majority and she herself has not supported the case of prosecution and thus has been declared hostile. He submits that case of the prosecution is also not medically corroborated. Though in her statement recorded under Section 164 Cr.P.C prosecutrix reiterated the allegations made in the FIR but she has not supported the case of prosecution before the learned Trial Court and hence innocence of the petitioner becomes evident. It is submitted that petitioner is a senior police officer with impeccable service record and in the overall facts and

circumstances of the case, deserves to be enlarged on bail.

On the other hand, learned State counsel on instructions from Inspector Sneh Lata and ASI Karnail Singh has submitted that there are specific allegations against the petitioner. He submits that in her statement recorded under section 164 Cr.P.C prosecutrix has reiterated the allegations made in the FIR, however, he candidly submits that while being examined before the learned Trial Court she has not supported the case of prosecution and thus has been declared hostile. State counsel has also endorsed the fact that prosecutrix has lodged three other FIRs against various persons on similar set of allegations and in those cases also while being examined as prosecution witness she has not supported the case of prosecution and has been declared hostile. It is submitted that petitioner has no criminal antecedents.

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

Admittedly, petitioner and prosecutrix are of the age of majority. The case was investigated by the S.I.T constituted by the State and thereafter challan was presented. Prosecutrix was examined by the Trial Court as PW-1 and she has not supported the case of prosecution and thus has been declared hostile. Copy of her deposition before the Trial Court has also been produced. A perusal of the same would show that prosecutrix has deposed that petitioner Gurmit Singh had not committed any offence with her and she never moved any application against him. It is also not disputed that prosecutrix has lodged three other FIRs of the similar nature against different persons but during her examination by the Trial

Court she did not support the case of prosecution and was declared hostile by the prosecution.

This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

There is nothing on record to show that the petitioner is involved in any other offence besides the present case. As the prosecutrix has already been examined, there is no possibility of any undue influence from the petitioner side.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

05.12.2022

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