

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

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CRM-M-4598-2023

Date of Decision: 26.05.2023

Pritam Kumar Alias Tinku**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Neeraj Jain, Advocate for the petitioner

Ms. Guramrit Kaur, DAG, Punjab
(assisted by ASI Sukhpal Singh)

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking concession of regular bail in FIR No.159 dated 04.11.2022 under Sections 354, 354-B & 323 of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Gidderbaha, District Sri Muktsar Sahib.

2. The case of the prosecution is that complainant lodged a complainant alleging that she works as Sweeper at Patwar Khana. She goes to work at 08:00 AM and comes back at 4:00 PM. On 02.11.2022 at 04:30 PM, she left office and reached vegetable market. When she was purchasing vegetables, someone hit motorcycle from behind and when she asked as to why he did so, he replied that he will again do the same and said person was Pritam Kumar @ Tinku. He left from there and came back. He tore her shirt from her chest and gave fist blow on her face.

3. Learned counsel for the petitioner, *inter alia* contends that complainant has lodged FIR against the petitioner because grandmother of the petitioner has filed complaint dated 14.04.2021 (Annexure P-3) against son of the complainant. The petitioner is in custody since 07.12.2022 and he is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Sri Muktsar Sahib. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 24.05.2023 is taken on record. As per custody certificate, the petitioner is in custody since 08.12.2022 and he is not involved in any other offence.

5. Learned State counsel submits that police report has already been filed and charges stand framed. She further submits that out of 19 witnesses, none has been completely examined, however, victim has been partially examined.

6. The petitioner is in custody since 08.12.2022 and he is not involved in any other offence. Police report under Section 173 of Cr.P.C. stands filed and charges stand framed. The offence is triable by Magistrate. No recovery is to be effected from the petitioner. The Trial Court yet has to return definite findings on the disputed issues. There are 19 prosecution witnesses and till date none has been completely examined, thus, there is abysmally low possibility of conclusion of trial in near future. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in

view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

8. If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

9. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

26.05.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>