

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103+223

CRM-M-8257-2023 (O&M)
Date of Decision: 17.03.2023

Dimple Rani

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Jagmeet Singh Moudgill, Advocate for the petitioner

Mr. Shiva Khurmi, AAG, Punjab
(assisted by ASI Rajinder Singh)

JAGMOHAN BANSAL, J. (ORAL)

CRM-12357-2023

Application for placing on record Annexure P-5 to P-8 is allowed. The same are taken on record subject to just exceptions. Registry is directed to tag at appropriate place.

CRM stands disposed of.

CRM-M-8257-2023

1. The petitioner through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking concession of regular bail in FIR No.100 dated 06.05.2022 under Sections 376(2)(n), 506 & 120-B of Indian Penal Code, 1860 (for short 'IPC') (Sections 370, 377 of IPC added later on) registered at Police Station Sadar Nabha, District Patiala.

2. The case of the prosecution is that prosecutrix approached police authorities and made a complaint alleging that she is resident of Nabha. While she was studying in 10th class, Lali Ram used to come outside her school and compel her to make friendship with him. He used to threaten her. Due to fear she made friendship with him. During last 20 months, he took her away to different places and committed rape upon her. On the asking of Lali Ram, she gave sleeping pills to her family members on 04.10.2021 and reached at the house of Dimple Rani wife of Pamma where Lali did not come. Dimple Rani kept her there where unknown persons used to come and physically exploit her. Dimple Rani sent her to Samana along with one person namely, Jaswinder Singh who on 09.03.2022 solemnized marriage with her.

3. Learned counsel for the petitioner *inter alia* contends that Hon'ble Supreme Court vide order dated 03.03.2023 passed in Criminal Appeal No.719 of 2023 has granted concession of anticipatory bail to Lali Ram against whom there are allegations of rape. The prosecutrix has executed an affidavit dated 23.08.2022 deposing that she does not want to pursue her case against Raj Kumar Arora and Others. She had lodged FIR under pressure of her family members. Co-accused namely, Raj Kumar has been granted concession of anticipatory bail vide order dated 10.01.2023 passed by this Court in CRM-M-305-2023. Co-accused Jaswinder Singh, with whom prosecutrix has solemnized marriage, has been granted concession of anticipatory bail vide order dated 08.09.2022

passed by Additional Sessions Judge, Fast Track Special Court, Patiala. It is only the petitioner who is in custody. There is no evidence of human trafficking on the part of petitioner. The petitioner 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 Patiala. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 16.03.2023 is taken on record. Registry is directed to tag the same at appropriate place.

5. Learned State Counsel submits that police report has already been filed and charges stand framed. He further submits that there are 11 witnesses and till date nobody has been examined. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

6. Proviso to clause (i) & (ii) of sub-section (1) of Section 437 Cr.P.C. provides that the court may release on bail if a person accused of commission of offence punishable with death or imprisonment for life is 'under the age of sixteen years or is a woman or is sick or infirm'.

7. While adverting with bail to a woman, a two judge bench of Hon'ble Supreme Court in *Satender Kumar Antil v. CBI; (2022) 10 SCC 51* has observed:

“69. *Proviso to Section 437 of the Code mandates that when the accused is under the age of sixteen years, sick or infirm or being a woman, is something which is required to be taken note of. Obviously, the court has to satisfy itself that the accused person is sick or infirm. In a case pertaining to women, the court is expected to show some sensitivity. We have already taken note of the fact that many women who commit cognizable offences are poor and illiterate. In many cases, upon being young they have children to take care of, and there are many instances when the children are to live in prisons. The statistics would show that more than 1000 children are living in prisons along with their mothers. This is an aspect that the courts are expected to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.*”

8. In the case in hand, there are allegations of rape against Lali Ram and he has been granted concession of anticipatory bail by Hon’ble Supreme Court. Co-accused Raj Kumar has been granted concession of anticipatory bail by this Court and Jaswinder Singh with whom prosecution has solemnized marriage, has been granted concession of anticipatory bail by Sessions Court, Patiala. It is only the petitioner who is behind the bars for last more than 10 months. Though there are allegations of human trafficking, however, there is no evidence except

allegations of present case. The petitioner is not involved in any other offence and *prima facie* it seems to be a case of love marriage. There are 11 prosecution witnesses and till date none has been examined, thus, there is abysmally low possibility of conclusion of trial in near future.

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

10. 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

17.03.2023
Mohit Kumar

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