

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-7784-2023 (O&M)
Date of decision : 11.10.2023

Harpreet Singh @ Happy ... Petitioner(s)

Versus

State of Punjab ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rishu Mahajan, Advocate for the petitioner.
Mr. M.S. Tiwana, AAG Punjab.

ALKA SARIN, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.64 dated 23.05.2022 under Sections 376/344/366 of the Indian Penal Code, 1860 and Sections 3 & 4 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Nakodar Sadar, District Jalandhar.
2. The brief facts relevant to the present case are that on the statement made by the complainant/victim who was 15 years of age, the present FIR was lodged wherein it was alleged that she was studying in 10th Class at Government Senior Secondary School, Khanpur Dhada. While she was going from her village to her school, she was accompanied by her elder sister and cousin. When their auto rickshaw reached at the gate of the school at about 07.20 AM, there the petitioner who was already known to her was

standing near the gate of the school in a Swift Car No.PB-33-E-2086. He called her and she reached near the car. The petitioner made her to sit in the car and he is alleged to have taken her to a hotel room at B&B Hotel Taj City, Nakodar and on the pretext of marriage he started making forcible advances towards her. He made physical relations with her without her consent. It was further stated that he continued with the act till 11:00 hrs and later he took her in the Swift car and left at the gate of the school where her mother was already waiting. She is alleged to have accompanied her mother and gone to her house. On reaching the house, she disclosed the entire incident to her mother. Hence, the present FIR.

3. Learned counsel for the petitioner would contend that the alleged incident is dated 23.05.2022 and the medical was conducted on 24.05.2022. As per the DNA Report, human semen and male DNA detected on the clothes of the victim did not match the DNA profile of the petitioner herein. Learned counsel for the petitioner would further contend that the complainant/victim while appearing in Court as PW-5 has stated that no wrong was committed with her by the present petitioner. It is further the contention that the petitioner has been in custody for a period of 01 year 04 months and 17 days and that he has absolutely clean antecedents.

4. Learned counsel for the State has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 01 year 04 months and 17 days and there is no other case pending against the petitioner. Learned counsel for the State is not in a position to

deny that as per the DNA Report the DNA profile of the petitioner has not matched the samples picked up from the clothes of the victim. Learned counsel for the State is also not in a position to deny that the complainant/victim has not supported the case of the prosecution.

5. Heard.

6. In the present case as per the custody certificate the petitioner has been in custody for a period of 01 year 04 months and 17 days and there is no other case pending against him. As per the DNA Report, human semen and male DNA detected on the clothes of the victim has not matched the DNA profile of the present petitioner. Further still, the complainant/victim has not supported the case of the prosecution while appearing as PW-5. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

6. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

7. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

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8. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

9. Disposed off. Pending applications, if any, also stand disposed off.

11.10.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO