

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

Sr. No.221

CRM-M-7922-2023

Date of Decision: 20.02.2023

Jaswinder Kumar @ Saurav

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Sandeep Kumar, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

TRIBHUVAN DAHIYA, J. (ORAL)

This is a petition under Section 439 Cr.P.C. seeking grant of regular bail in case FIR No.43 dated 24.07.2022, registered under Section 376 IPC (Sections 3 and 4 of POCSO Act, 2012 have been added later on) at Police Station Bholath, District Kapurthala.

As per the allegations in the FIR recorded on the statement of the prosecutrix, aged about 16 years, on 12.05.2022 at around 11 a.m., the petitioner took her to Jalandhar and booked a hotel room there. She was forcibly raped in that hotel room by the petitioner on the pretext of getting married to her, but thereafter, he stopped speaking to her on phone. In these circumstances, the FIR was lodged on 24.07.2022.

Learned counsel for the petitioner contends that it is apparent from the allegations itself that the prosecutrix willingly accompanied the petitioner to Jalandhar. He further submits that during the trial, the prosecutrix as well as her parents have not supported the prosecution version. Still, the petitioner remains in custody since 24.07.2022.

Learned State counsel, upon instructions from ASI Ravinder Singh, is not in a position to dispute the submissions made by learned counsel for the petitioner. He, however, opposes the grant of bail on the plea that DNA report is awaited, and the remaining sixteen witnesses will soon be examined.

In view of the facts aforestated, it is apparent that conclusion of the trial will take some time, as sixteen prosecution witnesses are still to be examined. Besides, the material witnesses including the prosecutrix have already been examined. Therefore, no useful purpose will be served by confining the petitioner to custody during trial.

In view thereof, the petition is allowed, and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

(TRIBHUVAN DAHIYA)
JUDGE

20.02.2023
Maninder

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No