

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.8726 of 2023
Date of decision: 14.12.2023

Sukhpreet Singh alias Gurpreet Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Kamal Narula, Advocate,
for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab.

MANISHA BATRA, J.

1. The present petition has been filed by the petitioner for grant of regular bail in case bearing FIR No.44 dated 12.05.2022 registered under Sections 376 and 120-B of IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”) at Police Station Khuikhera, District Fazilka.

2. The brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of statement of the victim “K” (name withheld) as recorded on 12.05.2022 alleging therein that she had been raised and brought up by her maternal grandmother “G” (name withheld) since the age of one one and half years and was residing with her. About four months back, she had gone to the field abutting her house to answer the call of nature when her neighbourers Raju Bai and Kulwinder Gheer Kaur had called her at their

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house. On reaching there, they had locked the victim inside a room where the petitioner Sukhpreet Singh who is grandson of her mother's uncle, was already present there. He had forcibly committed sexual intercourse upon her twice. Due to fear, she did not disclose about the incident to anyone. Then on 06.05.2022, the abovesaid Kulwinder Kaur and Raju Bai had extended beatings to her mother and herself. Matter was reported to the police and their statements were recorded. As she was not feeling well, therefore, her mother and grandmother had admitted her in hospital on 11.05.2022 and then they came to know that she was pregnant. She prayed for taking penal action against the petitioner, Kulwinder Kaur and Raju Bai. After registration of FIR, investigation proceedings were initiated. The victim was medico legally examined. Her statement under Section 164 of Cr.P.C. was also got recorded. The petitioner was arrested on 12.05.2022. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for commission of the aforementioned offences.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. Infact on 06.05.2022, the complainant along with her mother, Santosh Rani and two more females had come to the house of Kulwinder Kaur and had started quarreling with her. They had extended beatings to Kulwinder Kaur and her sister-in-law. A DDR was registered on 08.05.2022 against the complainant and her mother on the statement

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of Kulwinder Kaur and thereafter, a false story was concocted by the complainant and her mother. It is submitted that before the police authorities, the victim had stated that rape upon her committed by some unknown persons when she had gone for doing labour work and it was only due to party fraction that the petitioner and other co-accused were falsely involved in this case. It is submitted that the victim has not implicated the petitioner in his sworn deposition recorded in the Court. Even her mother has not deposed anything against the petitioner. There is delay of four months in registration of FIR. He is in custody for a period of about one and half years. Trial is likely to take time. There are no chances of his absconding or tampering with the evidence. The bail is the rule and jail is an exception. With these broad arguments, it is submitted that the petition deserves to be allowed. Along with the petition, learned counsel for the petitioner has annexed copies of statements of the prosecutrix and her grandmother and mother respectively as recorded before learned trial Court as Annexures P-4 to P-6.

4. Per contra, learned State counsel has argued that there are serious and specific allegations against the petitioner. Irrespective of the fact that the complainant, her grandmother and mother did not support the prosecution case, the allegations against the petitioners were still proved from the overwhelming evidence which had come on record in the nature of Forensic DNA Test report which fully pointed out towards the guilt of the petitioner. Therefore, he argued that the petition did not deserve to be allowed.

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5. I have heard learned counsel for the petitioner and learned State counsel and have perused the record.

6. The petitioner who is a close relative of the prosecutrix is alleged to have committed the act of aggravated penetrative sexual assault upon her twice in the year 2022. In her complaint as submitted before the police as well as in her statement as recorded under Section 164 of Cr.P.C., the victim specifically named the person who had sexually assaulted her. On conducting her medical examination, the victim was found to be pregnant.

7. Learned State counsel has placed on record, copy of Forensic DNA Test Report dated 30.08.2022 received from the Forensic Science Laboratory, Punjab as per which the product of conception taken out from the womb of the victim matched with DNA profiling of the victim as well as of the present petitioner. As per this report, the DNA profiling of the petitioner is consistent as of being the biological father of product of conception stated to be of the victim. The victim is a minor. Undoubtedly, she has not supported the allegations in the FIR while appearing as a witness before the Court and even her mother and grandmother have not deposed that the petitioner had ravished the victim. However, the question as to what is the effect of these statements is to be considered by learned trial Court at the time of final disposal of the case as pending as against the petitioner. Keeping in view the fact that there is medical on record indicating that the victim had been found pregnant at the time of reporting the matter to the police and had alleged that it was

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the petitioner who had ravished her coupled by the fact that the DNA profiling of the product of conception stated to be of the victim is consistent with the DNA profiling of the petitioner, the gravity of the allegations as levelled against him, the quantum of sentence which the conviction may entail but without meaning to make any comments on the merits of the case, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

14.12.2023

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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No