

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 12868/2022

Date of decision: 02.08.2023.

Rajbir Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. KS Bal, Advocate for the petitioner.

Mr. Pankaj Khullar, AAG Punjab.

Nidhi Gupta, J.

Prayer in this petition under Section 439 Cr.PC is for grant of regular bail in case FIR No.59 dated 17.6.2021 under Sections 376/354-C/506 IPC PS Mattewal, District Amritsar.

Abovesaid FIR (Annexure P-1) was registered on the basis of the statement of the complainant/victim, and reads as under:-

“Application No. 5954PP dated 14.12.2020 and application No. 2202 IGP dated 31.12.2020. To 1. DGP, Punjab, 2. Chief Minister Punjab, 3. Chairperson Manisha Gulati, 4. I.G. Amritsar, 5. Senior Superintendent of Police Amritsar Rural. 6. XX, Amritsar, 7. Chief Justice Punjab and Haryana High Court, 8. Human Rights Commission Punjab. Sub: Application for registration of FIR under the appropriate offences against accused Rajbir Singh who have given threats to me and my son repeatedly made unlawful physical relation and consequently conceived pregnancy, then given threats and given medical kit and then again given threat and affected compromise. Now again making illicit relation and given comments while going on the way and caused harassment. Sir, in reference to the above cited subject it is requested that I Sandeep Kaur W/O Kulwinder Singh caste Jat R/O Village Khede XX Chak, Police Station Mattewal Chak District

Amritsar, aged about 30 years. That I am a married and I have 8 years old son. My husband Kulwinder works in a private company at Amritsar as security. Who is used to go on his night duty. That in May 2020, my husband was gone for night duty. I alongwith my 8 years old son Jashanpreet Singh was slept alone in the house. At about 10:00 PM at night Rajbir Singh S/O Lakhwinder Singh caste Jat R/O village KhedeBalaChak District Amritsar and entered at my house from the roof of my h y house. I heard some noises. Therefore I woke and saw that above said Rajbir Singh entered in my room and started forcing me to make physical relation with him. When I tried to refused him to do so, above said give life threats to me as well as my son. Therefore he commit molestation with me and said that if you tell anything about this to anyone I will kill you as well as your son. He has committed this with me for 5-6 times. When I told to the above said accused that I am pregnant and I am going to be mother of your baby. Above said buy medical kit forcefully and made me to eat it and said asked me not to told anyone about this otherwise he will kill my son. When I told about the wrongful act and molestation committed with me to my husband and the Punjab Police, then in this regard a complaint was got registered by me in the Police Station. Then respectable persons of the village pressurize me as well as my husband to conduct compromise. Sir, I want to tell you that above said Rajbir Singh has committed molestation with me by giving threats to kill my husband as well as my son and compelled me to have medical kit and affected compromise and also give threats to me. He used to give wrong gestures to me and asked to make physical relation with him when I go or came from somewhere and also roams with goons type people. I have danger to my life as well as life of my husband and son. It is also important to tell that respectable person decided that above said accused will give Rs. 2,50,000/- and admitted that he will not repeat this again. Above said accused

is still giving taunts to me, pass bad comments and insulted me that I have purchased you in Rs. 2,50,000/-. Now tell how much you want for next time to make physical relation with me. Above said has defamed me in my village nearby police post and nearby villages. Now I am fed up of all this.”

Ld. counsel for the petitioner submits that the complainant is a married woman and has one son and the petitioner is friend of husband of the complainant. It is submitted that in actual fact the complainant and her husband had borrowed some money from the petitioner and when the petitioner demanded his money back from the husband of the complainant, the present malicious FIR has been registered against the petitioner. It is further submitted that in the report under Section 173 Cr.PC (Annexure P-2) filed by the Investigating Officer, petitioner has been exonerated, however, as it is a cognizable offence, accordingly, upon rendering of legal opinion by the concerned D.A., present FIR has been registered against the petitioner. Ld. counsel also refers to the following findings recorded in the report under Section 173 Cr.PC dated 4.8.2021 (Annexure P-2):-

“Complainant Sandeep Kaur gave an application against Rajbir Singh at Chaki Tahli wala Sahib Police Station Mattewal for trying to hit her 8-year-old son with truck. Which was not proved during investigation and found false. On dated 27.12.2020 Kulwinder Singh husband of complainant has given an application against Rajbir Singh for trying to hit him with car at Chaki Tahli wala Sahib Police Station Mattewal. But during enquiry it was also not proved that Rajbir Singh has tried to inflict injuries to Kulwinder Singh. During enquiry, Investigation officer take out the call details of the Mob. No. 99142-96191, 98551-34698 of Rajbir Singh S/O Lakhwinder Singh R/O Khedebala from dated 01.08.2020 to 22.01.2021 from Cyber Crime Amritsar Rural.

No call has been made on the Mob. No. 7696226507 of complainant Sandeep Kaur from the above said mobile number of Rajbir Singh from dated 01.08.2020 to dated 21.01.2021. as per the report of ASI Daljit Kaur Incharge Women Cell Sub-Division Majitha, after affected the compromise, it has not been proved that Rajbir Singh has again done wrongful acts, caused harassment to Sandeep Kaur. Applicant Sandeep Kaur wants to get register multiple FIRs against Rajbir Singh by leveling false allegations. No evidence has been found in the application”.

Ld. counsel for the petitioner also submits that medical evidence does not support the case of the complainant. Reference is made to relevant portion of the aforesaid report under Section 173 Cr.PC, wherein it has been recorded that *“The swab test report of the victim has been received. Conclusion. From the above observations, it is concluded that 1. Human semen present on the exhibits A-1, A-2, B-1 (Source Vaginal swabs stated to be of Sandeep Kaur) does not belong to Rajbir Singh (Source Exhibit C)”*

Custody certificate dated 1.8.2023 produced by State counsel is taken on record according to which petitioner has undergone total custody as undertrial for 2 years and 25 days.

Ld. State counsel opposes the prayer and submits that 8 out of 19 witnesses have been examined so far. Ld. counsel admits that material witnesses including the prosecutrix/complainant stand duly examined in the matter and she has supported the prosecution case in her deposition.

After hearing ld. counsel for the parties, without commenting on the merits of the case, and keeping in view the fact that petitioner has undergone total custody as undertrial for 2 years and 25 days; prosecution evidence is yet to be concluded and as such conclusion of trial will take some

time; and that no useful purpose would be served by keeping the petitioner in custody, the present petition is **allowed**. The petitioner Rajbir Singh son of Lakhwinder Singh is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

02.08.2023.
Joshi

(Nidhi Gupta)
Judge