

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

211

CRM-M-12962-2022
Date of Decision: 20.03.2023

Tirath Singh Alias Laddi**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL****Present:-** Mr. Arun Sharma, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab
(assisted by ASI Davinder Singh)

JAGMOHAN BANSAL, J. (ORAL)

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.96 dated 20.12.2021 under Sections 376, 384, 450 & 506 of Indian Penal Code, 1860 (for short 'IPC') registered at Women Police Station Patiala, District Patiala.
2. Report by way of affidavit dated 20.03.2023 filed by Chand Singh, P.P.S., Deputy Superintendent of Police, Crime against Women & Children, District, Patiala filed on behalf of respondent-State is taken on record. Registry is directed to tag at appropriate place.
3. The case of the prosecution is that prosecutrix lodged a complaint with police authorities on 22.09.2021 alleging that petitioner-Tirath Kumar alias Laddi was a friend of her husband and he was on visiting terms. Two months ago, he came to her house and forced her to

drink. She felt dizziness and petitioner made her objectionable video. Under the threat of making the video viral, he committed rape upon her many times. He also extorted Rs.50-60,000/- from her.

4. Learned counsel for the petitioner, *inter alia* contends that there was consensual relation between the petitioner and prosecutrix which is evident from the mobile location of both the parties. The petitioner and prosecutrix on 28.08.2021 visited to Amritsar and stayed in a hotel. The petitioner is in custody since 26.12.2021 and he 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.

5. Custody certificate dated 19.03.2023 is taken on record. Registry is directed to tag the same at appropriate place.

6. Learned State Counsel submits that police report has already been filed and charges stand framed. He further submits that out of 16 witnesses, 2 have already been examined which includes prosecutrix and her husband. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

7. In the case in hand, as per reply dated 20.03.2023 filed by respondent-State, the petitioner as well as prosecutrix on 28.08.2021 were in Amritsar and they have exchanged messages. The prosecutrix and her husband stand examined. The petitioner is in custody since 26.12.2021 and

he is not involved in any other offence. The prosecutrix at the time of alleged offence was major. The Trial Court yet has to return definite findings on the disputes issues. There are 16 prosecution witnesses and till date only 02 have been examined, thus, there is abysmally low possibility of conclusion of trial in near future. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

8. 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/Illaqa/Duty Magistrate concerned.

9. 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

20.03.2023
Mohit Kumar

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