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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-19597-2023 (O&M)
Date of Decision : 03.10.2023

Gurpiar Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Madan Sandhu, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

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ALKA SARIN, J. (Oral)

CRM-40877-2023

1. Allowed as prayed for subject to all just exceptions.

Documents are taken on record as Annexure P-2, P-3 and P-4.

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2. This is the first petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.52 dated 13.07.2022 registered under Sections 376, 506 of the Indian Penal Code, 1860 at Police Station Sadar Budhlada, District Mansa.

3. Learned counsel for the petitioner would contend that in the FIR totally vague allegations have been made of rape having been committed about two years ago. There is no specific date which has been

mentioned in the FIR. Learned counsel for the petitioner would further contend that in her statement recorded before the Court, the prosecutrix has admitted of having herself sent messages on Whatsapp and Facebook to the petitioner. She has also admitted that the photographs which were posted on Facebook were not objectionable. It has also come in her cross-examination that her family members were not happy due to her exchanging calls/messages with the petitioner herein. Learned counsel would further contend that the petitioner has been in custody for a period of 01 year 02 months and 19 days.

4. Learned counsel for the State has filed a status report by way of affidavit of Manjeet Singh, PPS, Deputy Superintendent of Police, Sub-Division Budhlada, District Mansa. Along with the status report, a copy of the chief and cross-examination of the prosecutrix as well as DNA Report has been appended. Learned counsel for the State has submitted that there is one more case pending against the petitioner under the Narcotic Drugs and Psychotropic Substances Act, 1985 and that he is not on bail in the said case. Learned State counsel has filed custody certificate of the petitioner. As per the custody certificate the petitioner has in custody for a period 01 year 02 months and 19 days.

5. I have heard learned counsel for the parties.

6. In the present case in the FIR no date has been mentioned by the complainant of the alleged incident. Further, there is no supporting medical evidence in the present case either. The prosecutrix has been

examined and cross-examined. She has stated in her cross-examination that she had been sending messages to the petitioner herein through Whatsapp and Facebook and her family was not happy about her making phone calls and exchanging messages with the petitioner through Whatsapp etc. Though the FIR is registered on 13.07.2022 and the incident itself is stated to be two years old, in her statement the complainant has stated that she narrated the incident to her mother in the year 2022 and even regarding that no date and month is forthcoming.

7. So far as the contention of learned State counsel that there is one more case pending against the petitioner under the NDPS Act is concerned, the Supreme Court in the case of **Prabhakar Tewari Vs. State of U.P & Anr. [2020(1) RCR (Criminal) 831]** has held that merely because there are other cases pending against an accused, the same by itself cannot be a reason for rejection of bail.

8. Keeping in view the totality of the circumstances and without commenting upon the merits of the case, I deem this to be a fit case to grant the concession of regular bail to the petitioner. Accordingly, the petitioner is directed to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned, provided the petitioner is not required in any other case.

9. Additionally, the petitioner shall not influence, pressurize or make any inducement threat or promise, directly or indirectly, to the

complainant or the witnesses or any other person acquainted with the facts and circumstances of the present case.

10. 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.

11. 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.

12. Disposed off accordingly. Pending applications, if any, also stand disposed off.

October 03, 2023
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(ALKA SARIN)
JUDGE

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