

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

219

CRM-M-21179-2023

Date of Decision: 31.05.2023

Satwinder Singh @ Satta

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Balkarn Singh Aulakh, Advocate for the petitioner

Mr. A.P.S Tung, DAG, Punjab
(assisted by HC Mandeep Singh)

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 of Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') is seeking regular bail in FIR No.277 dated 20.11.2022 under Sections 376, 366 & 506 of Indian Penal Code, 1860 (for short '**IPC**') registered at Police Station Lambi District Sri Muktsar Sahib.

2. The case of the prosecution is that prosecutrix made a complaint alleging that on 12.10.2022 her father and other family members had gone for labour work. She and her mother were present at home. At about 10:00 AM, Satwinder Singh came in front of their door on a motorcycle. She also came at door. They started talking to each other. Satwinder forcibly took her away on his motorcycle on the pretext of marriage. He took her away to a *dhani* of village Rangaisar, Sardar, Rajasthan where he committed rape upon her. They started working at

some place. On 18.11.2022, her father came to know about their location and took her away to his village.

3. Learned counsel for the petitioner, *inter alia* contends that petitioner and prosecutrix had solemnized marriage on 30.10.2022 according to Sikh rites and ceremonies. A marriage consent affidavit dated 31.10.2022 (Annexure P-2) was executed by the petitioner as well as prosecutrix. The contents of FIR itself indicate that prosecutrix at her own accord left her home and joined company of the petitioner. Without consent of the prosecutrix, it was impossible for the petitioner to take her away to Rajasthan from Punjab. She herself in FIR stated that they started working in Rajasthan. They stayed there for more than one month and prosecutrix did not raise any hue and cry. No recovery is to be effected from the petitioner. The petitioner is in custody since 23.11.2022 and he is not involved in any other crime. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Sri Muktsar Sahib. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Status report by way of affidavit dated 30.05.2023 of Balkar Singh, P.P.S., Deputy Superintendent of Police, Sub-Division Malout, District Sri Muktsar Sahib filed on behalf of respondent-State is taken on record. Registry is directed to tag the same at appropriate place.

5. Custody certificate dated 29.05.2023 is taken on record. As per custody certificate, the petitioner is in custody since 25.11.2022 and he is not involved in any other offence.

6. Learned State Counsel submits that police report has already been filed and charges stand framed. He further submits that out of 22 witnesses none has been examined. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

7. The petitioner is in custody since 23.11.2022 and he is not involved in any other offence. From the perusal of enclosed affidavit and contents of FIR, it *prima facie* appears that petitioner and prosecutrix have solemnized marriage against wish of their parents. Police report under Section 173 of Cr.P.C. stands filed and charges stand framed. No recovery is to be effected from the petitioner. The Trial Court yet has to return definite findings on the disputed issues. There are 22 prosecution witnesses and till date none has 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 be 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. If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

10. 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

31.05.2023
Mohit Kumar

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