

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-26311-2023 (O&M)

Date of decision : 16.11.2023

Gurdev Singh ... Petitioner(s)  
Versus  
State of Punjab ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. F.S. Virk, Advocate for the petitioner.

Mr. M.S. Tiwana, AAG Punjab.

ALKA SARIN, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.0086 dated 19.10.2022 under Section 376 of the Indian Penal Code, 1860 and Section 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Kheri Gandian, Patiala (Annexure P-1).
2. The present FIR was lodged on the statement of the prosecutrix who has stated that she was 15 years of age and that on 03.10.2022 when she was alone at home and was sweeping outside the gate, the son of the neighbour, namely, Gurdev Singh (petitioner herein) was standing in the street, who was known to her for one year and he started speaking to her lovingly and took her to his house. There he made forcible relations with her and she stayed there for about 2 hours and then she came back to her house. The FIR was lodged on 19.10.2022 and the medical was also conducted on

19.10.2022.

3. Learned counsel for the petitioner would contend that in the FSL Report the presence of human semen was not confirmed. It is further the contention of learned counsel that the statement of the prosecutrix now stands recorded and she has not supported the case of the prosecution. She has stated that the petitioner never called her to his house on 03.10.2022 and did not commit rape on her. She has further stated that she had not made the statement voluntarily to the police. It is further the contention of learned counsel that the petitioner has been in custody for a period of 10 months and 24 days and that he has absolutely clean antecedents.

4. Learned counsel for the State has filed the status report by way of affidavit of Dalbir Singh, PPS, Deputy Superintendent of Police, Headquarters which is taken on record. Registry to scan the same and tag at the appropriate place. Learned counsel for the State has also filed the custody certificate and as per the custody certificate, the petitioner has been in custody for a period of 10 months and 24 days. Learned State counsel is not in a position to deny the fact that the prosecutrix has not supported the case of the prosecution and that there is no other case pending against the petitioner.

5. Heard.

6. In the present case the occurrence is alleged to have taken place on 03.10.2022 and the FIR was lodged on 19.10.2022 and the medical was also conducted on 19.10.2022. No presence of human semen was detected in

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the FSL Report. The complainant/prosecutrix while appearing as PW-1 has not supported the case of the prosecution and infact she has stated that no such incident took place on 03.10.2022. As per the custody certificate, the petitioner has been in custody for a period of 10 months and 24 days and that there is no other case pending against him. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

7. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

8. 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.

9. 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.

10. Disposed off. Pending applications, if any, also stand disposed off.

16.11.2023

Yogesh Sharma

( ALKA SARIN )  
JUDGE

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