

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

207

CRM-M-28990-2023

Date of decision: 01.09.2023

LAXMI NARAYAN

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM : HON'BLE MS. JUSTICE NIDHI GUPTA

Present: Mr. Prashant Vashisth, Advocate
for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab.

NIDHI GUPTA, J.(ORAL)

The present petition has been filed under Section 439 Cr.P.C.
for grant of regular bail to the petitioner in case FIR No.80 dated
29.06.2022 under Sections 376 and 420 of IPC, registered at Police Station
Division No.-3, Jalandhar Police Commissionerate.

2. Brief facts of the case, on the basis of FIR registered by the
prosecutrix, are as under:-

*“Copy of ruqa "Statement is made by Meenu w/o
Manish r/o Shivalik Apartment, Maqdoompura, 6th floor,
Jalandhar age 32 yrs Mobile 6284962297, states that I am
resident of above said address. In Gandhi Market in the
building of Narinder Thapar 1st floor KFC near BMC Chowk
in the International Immigration Visa Center of Puneet Berry I
am working as receptionist from last 3-4 months. My marriage
has taken place 15 yrs ago with Manish s/o Harbans Lal r/o H
No 227, Basti No, Jalandhar, I have one son Hemant 13 yrs of
age, my divorce case proceedings with my husband is going on
from 2021 last year in the court, my son is there with my
husband. I tried to get back the custody of my child and was
having talks with in laws in this regard, but I couldn't get it,
prior to that 20-25 days ago Vinay Mandir near PPR market*

Model town, Jalandhar where I met a Pandit Luxmi Narayan s/o Krishan Gopal r/o Jalandhar, with whom I talked that I want to enchant my son Hemant, he told that he has an office near Dolphin hotel Jalandhar, I will call you there, Lakshmi Narayan called me to come once or twice but I didn't went there. On 29.6.2022 at 11 am morning Lakshmi Narayan told me that in Railway road, Standard hotel, Jalandhar to come there, your work will be done, when I went there on asking in reception I was sent to room No-1. There Pandit Lakshmi Narayan told that he has to perform rituals (pooja path) to get back his son Hemant , he told me to wash my legs and hands and some articles in which rice, oil, soft drink and some articles which was already there with Pandit. After washing legs and hands he asked me to sit on bed and started enchanting rhymes and started applying oil on my body and he shut the door, then he forcibly without my consent started removing my clothes on refusing him he caught me from shoulders and put me on the bed and became physical with me. As objectionable was going with me pushed and threw him away and went to the bathroom and locked it from inside and rang the police control room. Above Lakshmi Narayan after calling me in the Standard hotel room No-1 forcibly without my consent has raped me necessary legal action be taken against him.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner is a priest and the complainant was in a matrimonial dispute with her husband and in order to get the custody of her minor son from her husband the complainant contacted the petitioner. The petitioner asked her to come to his office near Dolphin hotel, Jalandhar. It has been alleged in the FIR that when the prosecutrix reached the room in the hotel, the petitioner started assaulting her and committed rape upon her. He further submits that the allegations made in the FIR are false. It is stated that the

prosecutrix has turned hostile before the trial Court as evident from her testimony as PW-1 (Annexure P-2) wherein she has denied moving any application to the Management of the temple where the petitioner resides and work, with regard to wrong acts committed upon her by the petitioner. Learned counsel for the petitioner submits that the petitioner is in custody since 01.07.2022.

4. Learned State counsel has filed the status report dated 30.08.2023 by way of affidavit of Daman Bir Singh, PPS, Assistant Commissioner of Police (North, Police Commissionerate, Jalandhar on behalf of the respondent-State. The same is taken on record. Copy thereof has been supplied to the counsel opposite.

5. Learned State counsel also filed custody certificate dated 30.08.2023 in Court today, which is taken on record as per which the petitioner is in custody for a period of 01 year 02 months. Learned State counsel admits that the prosecutrix has turned hostile in the present matter and submits that out of 16 prosecution witnesses 11 witnesses have been examined so far. He further submits that as per custody certificate no other case is pending against the petitioner.

6. I have heard learned counsel for the parties.

7. Without commenting on the merits of the matter, in view of the fact that out of 16 prosecution witness, 11 prosecution witnesses have been examined till date and including the fact that no other case is pending against the petitioner as per custody certificate and that the petitioner is in custody since 29.06.2022 and has undergone 01 year 02 months in custody, present petition is **allowed**. The petitioner-Laxmi Narayan S/o Krishan Gopal is directed to be released on regular bail on his furnishing bail and

surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

8. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.
9. Pending application(s) if any also stand(s) disposed of.

September 01, 2023
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(NIDHI GUPTA)
JUDGE

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