

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 34455/2023

Date of decision: 09.08.2023.

Paramjit

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Wazir Singh, Advocate for the petitioner.
Mr. Arjun Lakhanpal, Addl. AG Haryana.

Nidhi Gupta, J.

Prayer in this third Petition under Section 439 Cr.P.C. is for grant of regular bail pending trial to the petitioner in case of FIR No.136 dated 13.05.2020, under Sections 341, 354-A, 376 (2) (n), 506 IPC (later on 376 (2) (n) deleted and section 376 IPC added), registered at Police Station Safidon, District Jind.

FIR in this case was recorded on the statement of the victim, which is reproduced hereunder:-

“To The Incharge Police Post Subject:- Regarding flirting and criminal force to outrage the modesty. It is requested that myself Preeti wife of Sumer Singh, caste Ror resident of Village Anchera Khurd was going from her house to put cow dung at the corral bada at about 530 AM on dated 11.05.2020.

In the way. Paramjit Singh S/o Satyawan, caste Ror, resident

of Anchera Khurd of my village by taking benefit of seeing me alone and in the absence of any person nearby dragged me forcibly into the corral bada and molested and committed wrong act with me there. When I made a noise my nephews reached at the spot. On seeing them, he ran away from the spot and also threatened to kill, in case you made a report to the police. Earlier also, we have lodged a FIR against him Compromise of which was got done by the brotherhood in the Panchayat. Due to that grudge, he used to threaten for the last many months and was looking for the opportunity. It is requested to take legal action against the accused and to justice be done with me Sd Preeti Applicant Preeti Wife of Sumer Singh, caste Ror, resident of Village Anchera Khurd”.

Ld. counsel for the petitioner inter alia submits that prosecutrix in the present case is 29 years old. It is stated that the alleged incident is of 11.5.2020, whereas complaint was made two days later on 13.5.2020 on basis of which FIR was registered on 13.5.2020, and complainant/victim has given no explanation as to why there was delay in lodging the FIR.

Ld. counsel for the petitioner further contends that petitioner has been implicated falsely as the medical evidence on record totally belies the story put forth by the prosecution. It is submitted that as per MLR dated 14.5.2020 (Annexure R-1) no injury either external or internal was found on the person of the victim. It is submitted that if allegation made by the victim that “she was forcibly dragged into corral bada” were correct then it would not be possible that there are no injuries on the person of the prosecutrix. In

this regard, ld. counsel refers to the MLR dated 14.5.2020, relevant extract of which is reproduced hereunder:-

“EXTERNAL EXAMINATION:

Preeti is of average built. She has given HO taken bath passing stools urination brushing of teeth multiple times since the activity.

No fresh external injury mark found over whole body.

No external bruise bile scratch mark found over whole body

LOCAL EXAMINATION

Labia minora are healthy and well developed no lactation

No bruise tear injury mark seen over genitals and perineum”

Ld. counsel for the petitioner further submits that even as per FSL Report (Annexure R-3) “*Semen could not be detected on any of the exhibits mentioned above.*” It is then submitted that charge under Section 376 (2)(n) stands deleted.

Ld. State counsel files custody certificate dated 8.8.2023 and status report by way of affidavit of Ashish Kumar, DSP, Safidon, which are taken on record.

Ld. State counsel submits that petitioner is in custody since 6.6.2020 has suffered incarceration of 03 years 02 months and 03 days. He further submits that out of 17 witnesses, 9 witnesses including the prosecutrix have been examined so far.

After hearing ld. counsel for the parties, without commenting on the merits of the case, however, keeping in view the fact that petitioner as undergone total custody as undertrial for more than 3 years; prosecution

evidence is yet to be concluded and as such conclusion of trial will take some time; and that no useful purpose would be served by keeping the petitioner in custody as material witness already stands examined, the present petition is **allowed**. The petitioner Paramjit son of Satyawan is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

09.08.2023.
Joshi

(Nidhi Gupta)
Judge