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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-35319-2023 (O&M)
Date of decision : 20.10.2023

Gautam Soni ... Petitioner(s)

Versus

State of Punjab ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amit Arora, 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.127 dated 26.04.2023 under Sections 363, 376, 344, 506, 120-B of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Sadar Amritsar, District Amritsar (Annexure P-1).
2. Learned counsel for the petitioner would contend that the FIR in the present case was registered on the statement of the victim-complainant wherein the allegations of rape have been made against the main accused – Abhi @ Sonu. Learned counsel would further contend that the allegation against the present petitioner is that the main accused had told the

victim/complainant that the present petitioner would bring her Activa scooter behind them and the victim/complainant sat in the Audi car of the co-accused bearing registration No.HR-26-BH-8124 white colour while the petitioner came behind them on the Activa scooter. Further allegation is that the petitioner had helped the main accused Sonu to take her and had also kept her Activa scooter. It is further the contention of learned counsel that the petitioner has falsely been implicated in the present case and that prior to the alleged date of incident i.e. 22.01.2023, on 09.01.2023 an FIR was got registered on the statement of the present petitioner being FIR No.2 dated 09.01.2023 under Sections 451/427/506/34 of IPC and Sections 25/27/54/50 of the Arms Act, 1959 at Police Station Majitha Road, District Police Commissionerate Amritsar, wherein allegations were that brother and father of the victim/complainant had attacked the present petitioner. Learned counsel would further contend that the present FIR is a counterblast to the FIR No.2 dated 09.01.2023 lodged by the petitioner. Learned counsel would further contend that there is a delay in lodging the present FIR as the incident alleged is of 22.01.2023 and the FIR has been lodged on 26.04.2023.

3. Status report by way of affidavit of Varinder Singh Khosa, PPS, Assistant Commissioner of Police, North Amritsar City has been filed by learned counsel for the State in Court today. Learned counsel for the State has contended that the victim/complainant has fully supported the case in her statement recorded under Section 164 CrPC. Learned counsel for the State

has also filed the custody certificate dated 17.08.2023 and as per the custody certificate, the petitioner has been in custody for a period of 03 months and 08 days and there is one more case pending against the petitioner. However, the petitioner is stated to be on bail in the said case.

4. Heard.

5. In the present case, an FIR was got registered by the present petitioner herein being FIR No.2 dated 09.01.2023 under Sections 451/427/506/34 of IPC and Sections 25/27/54/50 of the Arms Act, 1959 at Police Station Majitha Road, District Police Commissionerate Amritsar. Subsequent to the registration of the FIR No.2 dated 09.01.2023 by the present petitioner, the present FIR has been lodged. The allegation against the present petitioner is that he had driven the Aactiva scooter of the victim/complainant while she sat in the Audi car with the main accused - Sonu. Further allegation is that the petitioner helped the main accused – Sonu to take her with him and had also kept her Aactiva scooter. As per the custody certificate, the petitioner has been in custody for a period of 03 months and 08 days and though there is one more case pending against the petitioner, however, he is stated to be on bail in the said case. 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.

6. 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.

7. 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.

8. 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.

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

20.10.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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