

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 39152/2022

Date of decision: 09.08.2023.

Sonu Kumar

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Karanjeet Singh Brar, Advocate for the petitioner.

Mr. Kunwarbir Singh, AAG Punjab

Nidhi Gupta, J.

Prayer in this first petition under Section 439 CrPC is for grant of regular bail to the petitioner in case FIR No. 28 dated 24.02.2022 u/s 452,376,377,323 and 506 of IPC Act, PS Sadar Fazilka, Tehsil and District Fazilka.

Ld. counsel for the petitioner submits that petitioner is a young boy of 22 years old while prosecutrix is 70 years old. It is stated that the petitioner has been falsely implicated in the present case as sister of the petitioner had contracted love marriage with the grandson of the prosecutrix against the wishes of the prosecutrix and her family. Ld. counsel further submits that the alleged occurrence is of 13.2.2022, however, FIR has been lodged on 24.2.2022 after a delay of 11 days. It is further submitted that it has been alleged in the FIR that the petitioner entered into the house of the prosecutrix in the night and raped her after beating her, however, as per MLR dated 13.2.2022 no statement of the victim was recorded; and after delay of 2 days another MLR dated 14.2.2022 was conducted in which it was recorded

that all the injuries are simple in nature. Ld. counsel for the petitioner then submits that even as per FSL Report there was nothing against the petitioner.

Custody certificate dated 8.8.2023 produced by the ld. State counsel is taken on record as per which petitioner is in custody since 3.3.2022.

Ld. State counsel submits that in her statement under Section 164 Cr. PC, complainant has supported the case of the prosecution. It is further submitted that it has been held by the Hon'ble Supreme Court in numerous judgments that medical evidence is only corroborative in nature, and reliance has to be placed upon statement of the victim under Section 164 Cr.PC. Ld. State counsel further states that out of 17 witnesses 4 have been examined so far, and complainant in her deposition has supported the prosecution case. Next date of hearing in the matter is 14.8.2023.

After hearing ld. counsel for the parties, without commenting on the merits of the case, however, keeping in view the totality of the facts and circumstances of the case, including the fact that petitioner has undergone total custody as undertrial for 01 year 5 months and 8 days; 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, the present petition is **allowed**. The petitioner Sonu Kumar son of Jagdish Singh @ Jagdish Lal 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