

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**228****CRM-M No.38535 of 2023****Date of Decision : 07.11.2023**

Mandeep Singh @ Manjit Singh @ Mau

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Jagdish Singh Mahal, 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.0109 dated 14.10.2022 under Section 376 of the Indian Penal Code, 1860 registered at Police Station Sekhwan, Police District Batala, District Gurdaspur.

2. The FIR was lodged on the statement of the complainant wherein it was stated that on 14.10.2022 at about 10.00 am, when she was coming from Qadian on foot to her own house, in the meantime a young boy whose hair was cut, namely, Manjit Singh @ Mau (petitioner herein) son of Ajit Singh, whom she already knew, stopped his motorcycle and offered her a lift. She sat on his motorcycle. The petitioner started riding his motorcycle at a high speed from bridge Tatla canal towards village Thakar Sandhu on the side road of the canal. Thereafter, he stopped his motorcycle and took the

complainant to the bushes and did obscene acts with her and also committed rape upon her.

3. Learned counsel for the petitioner would contend that the victim/complainant has been examined as PW2 and has not supported the case of the prosecution. No male DNA was detected on the exhibits either.

4. Learned State counsel, on instructions from ASI Hardeep Singh, has yet again clarified that Harjit Kaur is the same lady who got registered the present FIR, as per the correction done by the Police vide *zimni* bearing No.031 dated 15.10.2022 (Ex.P8).

5. Learned State counsel has filed the custody certificate as per which the petitioner has been in custody for a period of 01 year and 22 days. There are three other cases pending against him.

6. I have heard learned counsel for the parties.

7. In the present case the victim/complainant has not supported by version of the prosecution. Even the DNA Report does not support the case of the prosecution. The petitioner has already been in custody for a period of 01 year and 22 days.

8. The statement of the victim/complainant bears thumb impression of one Harjit Kaur, although the FIR was lodged by one Ajit Kaur.

9. On 04.10.2023 the following order was passed :

“On 17.08.2023 the following order was passed :

“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.0109 dated 14.10.2022 under Section 376 of

the Indian Penal Code, 1860 registered at Police Station Sekhwan, Police District Batala District Gurdaspur. Learned counsel for the petitioner would contend that no male DNA was detected on the exhibits. Learned counsel for the petitioner would further contend that the prosecutrix in the present case has been examined and she has not supported the case of the prosecution. Learned State counsel has handed over the custody certificate as well as the statement of the prosecutrix (PW2). A perusal of the certified copy of the statement of the prosecutrix reveals that the statement has been thumb marked by one Harjit Kaur whereas the prosecutrix in the present case is someone else. The Trial Court is directed to submit a report qua the aforesaid fact. List on 15.09.2023.”

Pursuant to the order dated 17.08.2023, a report of the Additional Sessions Judge, Gurdaspur has been received and perused. As per the report, the prosecutrix Harjit Kaur was examined in Court as PW2 on 23.03.2023 and her name was inadvertently written as Ajit Kaur in the police record but upon production of her Aadhaar Card, the necessary correction has already been done by the Police vide zimini bearing No.031 dated 15.10.2022 (Ex.P8). It has further been reported that

name of the prosecutrix is Harjit Kaur wife of Satnam Singh instead of Ajit Kaur wife of Satnam Singh.

List on 07.11.2023.”

10. In view of the above and without commenting upon the merits of the case, I deem it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released, if not required in any other case, on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

11. 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.

12. 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.

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

**(ALKA SARIN)
JUDGE**

07.11.2023
jk

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