

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**216-1****CRM-M No.39492 of 2023****Date of Decision : 21.09.2023**

Rajan Shankar @ Rajbir @ Babu

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Umesh Aggarwal, Advocate for the petitioner.

Mr. Shubham Kaushik, 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.174 dated 05.10.2022 under Sections 354, 506 and 202 of the Indian Penal Code, 1860 and Sections 4, 8 and 17 of the Protection of Children from Sexual Offences Act, 2012 (Sections 376-D, 511 and 120-B IPC were added later on) registered at Police Station Majitha, Amritsar, District Amritsar.

2. Learned counsel for the petitioner would contend that initially the FIR was lodged by the complainant that one Dharminder Pal Singh @ Billa kept an evil eye on her and committed indecent act with her. She narrated the matter to her mother several times who threatened and asked her not to disclose the matter to anyone. Thereafter, she narrated the matter to the present petitioner and co-accused, Pritpal Singh. Both of them are stated to have slapped and threatened her. Thereafter, she did not disclose the

matter to anyone. It is further the allegation in the FIR that on 11.08.2022 at about 03.00/04.00 pm, Dharminder Pal Singh caught hold of her arm in the presence of her mother and started moving his hands on her breast. Thereafter, she is stated to have narrated the matter to her father and *chacha* and on the basis of said allegation the present FIR has been registered. Learned counsel for the petitioner would further contend that at the time of recording the statement under Section 164 CrPC the complainant had stated that the present petitioner had committed rape upon her in a forcible manner and the co-accused, Pritpal Singh, also tried to have sex with her in a forcible manner. Thereafter, statement of the complainant has been recorded as PW1 wherein in her cross-examination she has stated that the present petitioner and co-accused, Pritpal Singh, had never slapped or threatened her at any stage. She has also stated that she was tutored by the police and was under threat at the time of recording of her statement under Section 164 CrPC.

3. Learned State counsel has filed the custody certificate of the petitioner as per which he has been in custody for a period of 11 months and 19 days. Learned State counsel is also not in a position to deny the fact that the complainant, who appeared as PW1, and her father, while appearing as PW2, have not supported the case of the prosecution.

4. I have heard learned counsel for the parties.

5. In the present case the complainant had initially improved the case by stating in her statement under Section 164 CrPC that the present petitioner had committed rape upon her and the co-accused, Pritpal Singh, had also tried to have a forcible sex with her. However, while appearing as PW1 she has not supported the case of the prosecution and her father, who

appeared as PW2, has also not supported the prosecution version. The petitioner has been in custody for a period of 11 months and 19 days.

6 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 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.

21.09.2023
jk

(ALKA SARIN)
JUDGE

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