

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-40762-2023 (O&M)

Date of order: 24.08.2023

Bikramjit @ Sangu

.....Petitioner(s)

Vs.

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Arvind Kashyap, Advocate
for the petitioner.

Nidhi Gupta, J.

Prayer in this first petition filed under Section 439 of Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") is for grant of regular bail in case FIR No.64 dated 23.07.2021 registered under Sections 376, 450 and 506 of Indian Penal Code, 1860 (hereinafter referred to as "IPC") and Section 4 of Protection of Children from Sexual Offences Act (Amended 2012, 2019) at Police Station Narot Jaimal Singh, District Pathankot (Annexure P1).

2. FIR in the present case was registered on the basis of statement of the prosecutrix, and is reproduced hereunder:-

"Statement of Sandhia Devi daughter of Mahinder Pal resident of village Maldma, Police Station Narot Jaimal Singh aged about 17 years. Stated that I am permanent residing at above stated address. I have studied upto 9th Class. I do house work. My date of birth is 06.09.2004. My father-mother and sister

had gone to serve Peer Baba at Malrama in the night. I was watching T.V. while sitting in my room. Today dated 23.7.2021 time around 12:30 AM Bikramjit @ Sangu s/o Kishor Lal r/o village Malrama came to my room. On entering came to me, after catching hold of me threw me on the bed and without my consent he raped me and threatened that if I told anyone about this incident then I will kill you and he left. I under fear I did not tell to anyone. Now when my mother asked me while putting pressure then I told her with pressure then I told her on which my mother Balwinder Kaur w/o Mahinder Pal r/o village proceeded to police station for reporting then you meet us. I was aggrieved. Legal action be taken....”

3. It is inter alia submitted by learned counsel for the petitioner that the allegations in the FIR are false and fabricated. The petitioner and the victim are known to each other. On the date of alleged incident, the victim was more than 18 years of age and therefore, provisions of POCSO Act are not attracted. Further submits, that the petitioner has been in custody for approximately two years.

4. Notice of motion.

5. Mr. Karambir Singh, AAG Punjab accepts notice on behalf of respondent-State.

6. Learned State Counsel files custody certificate dated 23.08.2023 which is taken on record. As per the custody certificate, the petitioner has undergone custody of 1 year 11 months and 27 days.

Learned State Counsel opposes the prayer for bail and submits that the victim was minor at the time of commission of offence. The petitioner had trespassed into the house of the victim, had committed rape upon her without her consent, and had also threatened to kill her in case she disclosed about the occurrence to anyone. Learned State counsel further states that out of 24 witnesses 18 have been examined, and the prosecutrix in her testimony has supported the case of the prosecution.

7. I have heard learned counsel for the parties.
8. Without commenting on the merits of the matter, however, keeping in view the totality of the facts and circumstances of the case, including the fact that the victim was a minor at the time of incident and therefore, heinous crime has been committed against her, I find no ground is made out to grant regular bail to the petitioner. Present petition accordingly, stands **dismissed**.
9. Pending application(s) if any also stand(s) disposed of.

24.08.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No