

## IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

211

CRM-M-43077-2023 (O&amp;M)

Date of decision: 20.09.2023

Sukhwinder Singh

...Petitioner(s)

Vs.

State of Punjab &amp; Another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Bhupinder Kumar Gupta, Advocate  
for the petitioner.

Mr. Jaswinder Singh Arora, DAG Punjab.

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NIDHI GUPTA, J.

Prayer in this first petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.81 dated 08.03.2023 registered under Section 376 IPC at Police Station Model Town, District Hoshiarpur (Annexure P1).

2. FIR in the present case was registered on the basis of complaint moved by the victim/respondent No.2. Facts of the case as mentioned in the FIR are reproduced hereinbelow:-

*"Statement of Roselin daughter of late Ranjan Kumar, resident of Maalvir Nagar, Delhi, presently residing at Avtar Nagar, near Nakodar Chowk, gali no.00, near sasta iron trader, police station division no.4, Jalandhar, District Jalandhar, aged about 26 years, Mobile No.98722-08883. Stated that I am a resident of the abovementioned address and have studied till M.Sc. 1<sup>st</sup>. About 3 years ago, I left my family and came to Panchkula for job. During which, I met with an accident and I was unable to*

walk on my own. Thereafter, I came to Civil Hospital, Jalandhar for treatment and then someone told me to go to Khabra Church, Jalandhar where they provided good and free treatment. I applied online to go to Church and one vehicle bearing registration No.PB-07-BL-7200 came to me, whose driver revealed his name as Sukhwinder Singh and he picked me from there and took me to Khabra Church, Jalandhar. Where he left me. About a few days later, I received a telephonic call that I am Sukhwinder Singh, the driver of the car who had left you at the Church, who told you that if there is any problem, let me know. Then after a few days, I received a call from Sukhwinder Singh to whom I asked to get a room near the Church, who took me to a rented house at Jalandhar Cantt, Jalandhar. I do not know about the rented place where I was kept, whereby Sukhwinder Singh stayed with me for about two months to take care of me and he used to go home on Sundays and then Sukhwinder Singh established physical relations with me several times against my will despite my repeated refusal and then Sukhwinder Singh said that I will take care of you and divorce my wife and marry you. You cooperate with me in having physical relations and Sukhwinder Singh continued establishing physical relations for about 5 months under the pretense of marriage. On 06.03.2023, Sukhwinder Singh brought me to Presidency Hotel, Hoshiarpur. Whereby, he got me a room and had sexual relations with me and on 07.03.2023 also, he came in the morning and made sexual relations with me. And when I asked him about marriage, he started procrastinating and told me that I will drop you at Mahila Ashram. Whereupon, I went into depression and subsequently, he admitted me to Civil Hospital, Hoshiarpur. Whereby, I came to know that Sukhwinder Singh son of Tarsem Singh is a resident of Arora Colony (Kakko), Police Station

*Model Town, District Hoshiarpur. The said Sukhwinder Singh firstly against my will and subsequently, established physical relations with me under the pretense of marriage. Action should be taken against him according to law....”*

3. Learned counsel for the petitioner inter alia submits that as per FIR (Annexure P1), the victim/respondent No.2 has stated herself to be 26 years of age. However, as per Dera admission form (Annexure P3), the victim has stated herself to be 32 years of age. Learned counsel states that the victim has admitted in the FIR that she was in consensual relationship with the petitioner, however, present FIR was filed by the victim on the ground that the petitioner has allegedly refused to marry her. It is submitted that no specific date of incident, time or place of occurrence has been mentioned by the victim in the FIR. Learned counsel further submits that there are glaring discrepancies in the story/version as set out by the victim in the present FIR as also in the admission form of the Dera. In the FIR, the victim has stated that the petitioner took her from the Church to a rented accommodation; whereas in the admission form of the Dera dated 13.09.2022 (Annexure P3) and in her statement (Annexure P4) she has stated that she was taken from Church directly to the Dera.

4. As per custody certificate dated 04.09.2023, the petitioner is in custody for six months. Learned State Counsel on instructions from ASI Baljinder Singh states that the victim in her statement under Section 164 Cr.P.C. has supported the prosecution case. Challan has been presented in the Court, however, charges are yet to be framed in the matter.

5. I have heard learned counsel for the parties.
6. 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 perusal of custody certificate reveals that there are no other cases against the petitioner; as also the fact that trial is yet to commence and will take some time to conclude and in the interregnum no useful purpose will be served by keeping the petitioner behind bars; the present petition is **allowed**.
7. The petitioner Sukhwinder Singh s/o Tarsem Singh is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of the CJM/Duty Magistrate concerned. However, it is made clear that nothing stated above shall be deemed to be an expression of opinion on the merits of the case.
8. Pending application(s) if any also stand(s) disposed of.

**20.09.2023**  
Sunena

**(Nidhi Gupta)**  
**Judge**

**Whether speaking/reasoned: Yes/No**  
**Whether reportable: Yes/No**