

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**216****CRM-M No.44504 of 2023****Date of Decision : 13.09.2023**

Gurwinder Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Aminder Singh, 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.37 dated 24.02.2023 under Sections 376(D), 376(2)(n), 354-C, 506 and 509 of the Indian Penal Code, 1860 (Sections 67 and 67-A of the Information Technology Act, 2000 were added later on) registered at Police Station Lehra, District Sangrur.

2. Learned counsel for the petitioner would contend that the victim and the complainant in the present case have since been examined and both have not supported the case of the prosecution. The victim in her statement has stated that no rape was committed upon her. Learned counsel for the petitioner would further contend that in the FIR allegations are that in 2017 rape had been committed upon the victim and the FIR itself was registered on 24.02.2023. Learned counsel for the petitioner has contended

that the petitioner has been in custody for a period of 06 months and 19 days.

3. Notice of motion.

4. Mr. M.S. Tiwana, AAG Punjab, who is present in Court, accepts notice on behalf of the respondent-State. On instructions from HC Sunil Kumar the State counsel has stated that the victim, who is also the complainant, has not supported the case of the prosecution and has stated that no rape was committed upon her. The brother of the victim, who is a material witness, has also not supported the case of the prosecution. Custody certificate has been filed by learned State counsel as per which the petitioner has been in custody for a period of 06 months and 19 days.

5. I have heard learned counsel for the parties.

6. In the present case, the alleged incident is of 2017 and the FIR itself has been lodged on 24.02.2023. The victim as well as her brother have since been examined and both have not supported the case of the prosecution. The petitioner has already been in custody for a period of 06 months and 19 days.

7. 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.

8. 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.

9. 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.

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

(ALKA SARIN)
JUDGE

13.09.2023

jk

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