

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-44136-2023 (O&M)

Date of decision: 13.09.2023

Gurpreet Singh @ Gopy

...Petitioner(s)

Vs.

State of Punjab

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Harchand Singh Batth, Advocate
for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab.

NIDHI GUPTA, J.

Prayer in the present first petition under Section 439 of Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") is for grant of regular bail to the petitioner in case FIR No.81 dated 14.06.2022 under Sections 376, 363 IPC (later on Section 376-D was deleted and Section 376 IPC added) and Section 6 of POCSO Act, 2012 registered at Police Station Sadar Patti, District Tarn Taran.

2. FIR in the present case was registered on the basis of statement of the grandmother of the victim. Facts of the case as contained in the FIR are as follows:-

"....To SHO, Police Station Sadar, Patti, Subject: Complaint againsta Gurpreet Singh @ Gopi son of Pargat Singh, caste Mazbi Sikh, resident of Bathe Bhaini, Tehsil Patti and Sukhman Singh son of Charanjit Singh, caste Mazbi sikh, resident of village Asal, near Patti, who have committed excess with my minor granddaughter. Sir, I Surinder Kaur wife

of late Buta Singh, caste Mazbi Sikh, am the resident of Bathe Bhaini, Tehsil Pastti, District Tarn Taran and requests as under: that 1) that my son Resham Singh went to Singapore. The wife of Resham Singh went away, while leaving behind the children. I am looking after the children of Resham Singh. My granddaughter Navjot Kaur d/o Resham Singh aged about 16 years, who is studying in 10th class, was sleeping near to me in the night of 12.06.222 in routine manner. When I wake up, then saw that my granddaughter Navjot Kaur was not at home, when we were searching, then my granddaughter Navjot Kaur met us in an unconscious condition in front of the gate of Gurpreet Singh @ Gopi. Gurpreet Singh @ Gopi and Sukhman Singh were committing forcible rape upon her during the whole night after taking her. This entire matter has been informed to us by my granddaughter. After some time, when we saw, then the house of Gurpreet Singh @ Gopi was locked, who fled away from home. Gurpreet Singh @ Gopi and Sukhman Singh have committed excess with my minor daughter. Kindly legal action may be taken against them and justice be delivered to us. I would be highly thankful to you. RTI applicant Surinder Kaur wife of late Buta Singh, r/o Bathe Bhaini, Tehsil Patti, District Tarn Taran. Mob:78147-48615 dated 16.06.2022....."

3. It is inter alia submitted by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. It is submitted that the alleged date of incident in the present case is 12.06.2022, however, FIR has been registered after a delay of 02 days on 14.06.2022. Learned counsel submits that the complainant had named two accused i.e. the petitioner and one Sukhman Singh in the FIR. However, during the investigation, police has declared the co-accused as innocent and therefore, the offence under Section 376(D) IPC has been deleted and Section 376 IPC has been added. Learned counsel contends

that from the above, it is clear that the co-accused was falsely nominated as accused by the complainant; and it is, therefore, also clear that the petitioner too has been falsely implicated in the present FIR. Learned counsel further states that there are huge dents in the prosecution story. It is submitted that it has even been admitted that the victim while leaving the house has not raised any alarm.

4. Learned counsel for the State files custody certificate dated 12.09.2023, which is taken on record. As per the said custody certificate, the petitioner has been in custody as under trial for a period of 01 year, 02 months and 19 days. Learned State counsel while opposing the prayer for grant of regular bail submits that the victim in the present case is 16 years of age. It is submitted that she was found unconscious in front of the petitioner's house. Learned counsel further states that as per the MLR, it has been reported that 'possibility of sexual assault cannot be ruled out', however, FSL report is still awaited. The challan has been filed and the charges have been framed in the present matter, however, out of total of 15 prosecution witnesses, none has been examined so far.

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 as per custody certificate no other cases are pending against the petitioner, and the fact that the petitioner has already undergone custody of 01 year, 02 months and 19 days as under

trial, and the fact that no prosecution witness has been examined so far, and therefore, the conclusion of trial will take long time, present petition is **allowed**. The petitioner Gurpreet Singh @ Gopy s/o Pargat Singh R/o Village Bathe Bhaini, Tehsil Patti, District Tarn Taran, 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.

7. Pending application(s) if any also stand(s) disposed of.

13.09.2023
ps-l

(Nidhi Gupta)
Judge

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