

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 215

Criminal Miscellaneous No.M-47892 of 2022
Date of Decision: February 22, 2023

Sunil Kumar

..... PETITIONER(S)

VERSUS

State of Punjab

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Ms. Riffi Bala, Advocate for the petitioner.

Mr. Jashandeep Singh, AAG, Punjab.

Mr. Lupil Gupta, Advocate for respondent No.2.

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Tribhuvan Dahiya, J (Oral)

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.140 dated 18.12.2019, under Sections 376, 354, 506 IPC and Section 6 of POCSO Act, 2012 (Section 376 IPC was deleted and Section 376-D, 115, 376-DA IPC added later on), registered at Police Station Sadar Abohar, District Fazilka.

2. The allegations as per the FIR, which was registered on the statement of the victim aged about 16 years, are that on 05.11.2019 she was called by the petitioner to the house of one Gora Bai and raped there.

3. Learned counsel for the petitioner contends that the petitioner remains in custody since 20.12.2019 and the trial is not progressing. Seven of the prosecution witnesses still remain to be examined. Besides, the prosecutrix, her parents and the doctor have already been

examined. She also points out to the DNA test report, Annexure P-2, which is to the effect that no human semen and male DNA was detected on the exhibits.

4. Learned State counsel assisted by Mr. Lupil Gupta, Advocate, on instructions from ASI Dyal Chand, opposes the grant of bail on the ground that trial is going on and is about to conclude. At the same time the facts submitted by learned counsel for the petitioner are not disputed by him. Nor is there any other case against the petitioner, as per the custody certificate.

5. In the facts aforestated is apparent that the petitioner is in custody since 20.12.2019 and seven of the prosecution witnesses still remain to be examined. At the same time, the material witnesses, including the prosecutrix, her parents as well as the doctor concerned, already stand examined. The petitioner has no criminal antecedents. Therefore, no useful purpose will be served by confining the petitioner to custody during trial any further.

6. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail on furnishing of requisite bonds/sureties to the satisfaction of trial Court/Duty Magistrate concerned.

(Tribhuvan Dahiya)
Judge

February 22, 2023
payal

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No