

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**227****CRM-M No.45754 of 2023****Date of Decision : 13.12.2023**

Akashdeep alias Akash

....Petitioners

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Kamal Narula, 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.73 dated 13.07.2022 under Section 376-D of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (Sections 457, 363, 366-A, 511 IPC were added later on) registered at Police Station Arniwala, District Fazilka.

2. The FIR in the present case was registered on the statement of the victim herself alleging therein that on the intervening night of 11.07.2022/12.07.2022 all the family members were sleeping in the courtyard of the house. At around 1.00-1.30 am, Akashdeep alias Akash (petitioner herein), Dharamjit Singh @ Dharma and Darshan Singh entered her house. The petitioner covered her mouth with his hands and the said three persons took her to the roof of the house. There the petitioner committed rape upon the victim against her wishes and other two persons sat

in the stairs. On hearing her cries, her parents woke up and she disclosed everything to her parents. On 12.07.2022 she was taken to Civil Hospital, Fazilka for her medical.

2. Learned counsel for the petitioner would contend that the material witnesses including the victim have since turned hostile. It is further the contention that as per FSL Report no human semen and male DNA was detected on the vaginal swabs stated to be of victim.

3. Status report by way of affidavit of Sh. Achhru Ram Sharma, PPS, Deputy Superintendent of Police, Sub Division Jalalabad filed by learned State counsel is taken on record. Registry to scan the same and tag at the appropriate place. As per the status report, out of 18 witnesses 04 have been examined and the co-accused, namely, Dharamjit Singh @ Dharma and Darshan Singh were declared innocent vide *Rapat* No.32 dated 16.11.2022. Custody certificate of the petitioner has also been filed as per which the petitioner has been in custody for a period of 01 year 03 months and 14 days.

4. I have heard learned counsel for the parties.

5. In the present case the alleged incident is stated to have occurred on the intervening night of 11.07.2022/12.07.2022 wherein it has been alleged that the petitioner committed rape upon the victim. On 12.07.2023 itself the victim was taken to Civil Hospital, Fazilka for her medical examination. As per the status report filed by learned State counsel the FSL Report has since been received as per which no human semen and male DNA was detected on the swabs. Both the co-accused namely, Dharamjit Singh @ Dharma and Darshan Singh, have since been declared innocent vide *Rapat* No.32 dated 16.11.2022. The material witnesses have

also been declared hostile. The petitioner has been in custody for a period of 01 year 03 months and 14 days.

6. 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.

7. 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.

8. 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.

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

13.12.2023
jk

(ALKA SARIN)
JUDGE

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