

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

239

CRM-M-48612-2023 (O&M)  
Date of Decision : 30.11.2023

SARUKH KHAN

.... Petitioner

VERSUS

STATE OF HARYANA

.... Respondent

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Saleem Ahmed, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

**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.01 dated 02.01.2023 under Sections 376-D, 450, 323, 506 of the Indian Penal Code, 1860 registered at Police Station Bichhor, District Nuh.

2. The FIR in the present case was lodged on the statement of the complainant wherein she stated that on 01.01.2023 while she was sleeping in her house at about 11:00 pm then Dilshad and Sarukh Khan (the petitioner herein) entered into her house and forcibly raped her turn by turn. The FIR was lodged on 02.01.2023 and the medical was also conducted on 02.01.2023 itself.

3. Learned counsel for the petitioner would contend that the complainant while appearing as PW-2 before the Court below has not supported the prosecution version. Learned counsel has further contended

that even the medical does not support the prosecution version.

4. Learned counsel for the State has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 10 months and 27 days. Learned counsel for the State, on the instructions from ASI Mamta, has stated that out of 15 prosecution witnesses, 11 have already been examined. Learned State counsel is not in a position to deny the fact that the complainant/victim has since not supported the prosecution version and that in the FSL Report no semen was found on any of the exhibits of the victim.

5. Heard.

6. In the present case the petitioner has been in custody for a period of 10 months and 27 days. The FSL Report does not support the case of the prosecution. The complainant/victim has also not supported the prosecution version, her statement has been appended with the petition as Annexure P-3. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

7. In view of the above and without commenting upon the merits of the case, this Court deems 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.

**30.11.2023**

*Aman Jain*

**(ALKA SARIN)**

**JUDGE**

*NOTE:*

*Whether speaking/non-speaking: Speaking*

*Whether reportable: YES/NO*