

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

214

CRM-M-49927-2023

Date of Decision: 09.10.2023

Jasbir Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Ms. Riffi Birla, Advocate for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 276 dated 18.11.2022 (Annexure P-1) registered under Section 376 IPC at Police Station City Sri Muktsar Sahib, District Sri Muktsar Sahib.

The aforesaid FIR was registered on the basis of complaint moved by victim/complainant which is reproduced as under:-

“Application regarding registration of FIR under section 376, 420, 465, 467, 468, 471, 365, 511, 120-B IPC and Section 67-A of Information and Technology Act, against 1) Jasbir Singh son of Kakka Singh r/o village Tatiana, Tehsil Kaithal, District Karnal, 2) Satwinder Singh son of Lachman Singh 3) Sukhvir Singh son of Dara Singh residents of village Lande, Tehsil and District Sri Muktsar Sahib and 4/5 unidentified persons. Sir, it is submitted that applicant are two brother and sister, elder one is brother of applicant namely Inderjit Singh and applicant after doing B.A. from Dashmesh Girl college, Badal took admission at Punjabi

University, Patiala for doing M.A. Hindi in year 2017 and in the year 2019 after completing M.A. applicant passed post graduate diploma in leadership and governors from aforesaid university as regular students. That aforesaid Jasbir Singh was also student of M.A Political Science in Punjabi University, Patiala, due to which applicant and Jasbir Singh were known to each other and Jasbir Singh got married in year 2019, in which applicant and other university students attended the marriage that being the classmates, applicant and Jasbir Singh were sharing good relationship amongst each other and after aforesaid marriage, Jasbir Singh said to applicant that his spouse does not want to live with her and said that her marriage has been forcibly solemnized with Jasbir Singh and Jasbir Singh by telling such various stories started emotionally attacking applicants towards him and used to say to applicant that only applicant understand her emotions in this world and therefore, he used to have long conversation with applicant on telephone for sharing his emotions. That in year 2020 due to imposition of lockdown applicant went back to her village and aforesaid diploma was completed in the year 2021. Jasbir Singh on 19.12.2021 told applicant telephonically that he is coming to Sri Muktsar Sahib for some work and he wants to meet applicant, on which on, on 20.12.2021 at about 5 O'clock Jasbir Singh took applicant from Bawa Sant Singh road, where earlier Sukhdarshan Singh Marar office Sri Muktsar Sahib was there in his car and after talking about here and there for sometime Jasbir Singh offered cake for eating and juice for drinking to applicant and after that applicant got unconscious and Jasbir Singh took applicant to some unknown place and he committed rape with applicant without her consent many times. That when applicant did not come back home, the applicant's brother and other family members started searching for applicant, then after about 2 days, applicant's brother while taking alongwith other persons and relatives reached at Jasbir Singh's aforesaid village, where Jasbir Singh is not present at his house. Then applicant's brother met the village Sarpanch, who said that he will get recovered applicant from Jasbir Singh and on next day, he asked applicant family to come to Bathinda. That on the next day, applicant family members reached Bathinda, where Jasbir Singh village Sarpanch and Jasbir Singh's brothers told clearly has taken signatures of applicant on numerous papers, on which Jasbir Singh will prepared documents according to his Will and therefore, applicant and his family cannot harm Jasbir Singh. It is worthwhile to mention here that during this time, whenever applicant gets conscious then Jasbir Singh forcibly made her drink juice, due to which applicant again got unconscious

and during this time, Jasbir Singh continuously kept on committing rape with applicant and he in order to save himself took signature of applicant on blank papers by misusing her condition. That applicant's family are respectable persons of village and area, due to which prioritizing their prestige and reputation, they did not inform the police. That aforesaid Jasbir Singh Instagram account is jasbirsonu@instagram and he has facebook and whatsapp account also and aforesaid Jasbir Singh is having close friendship with aforesaid Satwinder Singh and Sukhbir Singh, who are residents of applicants' village. That from March, 2022 Jasbir Singh, Satwinder Singh and Sukhbir Singh edited photographs of applicant and Jasbir Singh and uploaded it on instagram and whatsapp and made it viral regarding which applicant and her family were not aware and they kept on doing so that on 24.07.2022 applicant and her old grandmother were alone at home then aforesaid Jasbir Singh, Satwinder Singh, Sukhbir singh persons, accused and 4/5 other unidentified who were riding on two cars forcibly entered applicant's house and tried to take applicant forcibly in the care, on which applicant objected and raised alarm and on hearing Dilbagh Singh son of Roop Singh and Jaskaran Singh son of Dilbagh Singh came on the spot on which aforesaid accused persons ran away from the spot by riding on their cars and while going, they threatened that if applicant inform regarding the same to the police, then they will kill applicant and her family that accused No.1 committed rape upon applicant many times without her consent without the Will of applicant by making her consume some intoxicant substance and prepared forged documents and accused in connivance with each other prepared applicant's forged photographs and later on uploaded and made it viral on social media without applicant consent, due to which accused has committed under sections 376/420/465/471/365/511/120-B IPC and Section 67-A of Information and Technology Act for which accused are liable submitted for punishment. Hence, it is submitted that FIR under sections 376/420/465/468/471/365/511/120-B IPC and section 67-A of Information and Technology Act may kindly be registered against aforesaid accused.....”

Learned counsel, *inter alia*, submits that the petitioner and the victim have studied in the same University and knew each other. It is submitted that at the time of alleged incident, the victim was 24 years old.

There was a consensual relationship between the petitioner and the

victim. It is also submitted that the petitioner and the victim have filed a joint civil suit (Annexure P-2) seeking permanent injunction along with consequential relief, restraining the defendants therein/family members of the victim from interfering in the personal life of the petitioner and victim. Learned counsel further submits that as per allegations levelled in the FIR, the incident pertains to 20.12.2021, however, the present FIR was registered on 18.11.2022 i.e. after expiry of 11/12 months. Furthermore, challan in the present case was presented on 27.03.2023 and the victim is not appearing before the trial Court since last 06 dates. The petitioner has been in custody since 11.02.2023. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner may be released on regular bail.

Per contra, learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and has filed custody certificate dated 06.10.2023, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 07 months and 25 days. He further submits that serious allegations have been made against the petitioner, inasmuch as, the petitioner had raped the victim many times. Learned counsel for the State further informs that charges are yet to be framed by the trial Court.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case including the fact that custody certificate reveals that there is no other case against the petitioner; and the fact that charges are yet to be framed by the trial Court, therefore,

conclusion of trial will take sufficient time and no useful purpose would be served by further detention of the petitioner, the present petition is **allowed.**

The petitioner-Jasbir Singh S/o Kaka Singh, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

09.10.2023
rishu

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No