

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

219

CRM-M-51611-2022

Date of Decision: 03.03.2023

Satish Sarpal Alias Satish Kumar**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Rahul Sharma, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking regular bail in FIR No.72 dated 20.06.2022 under Sections 376, 511, 451, 323 & 34 of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Division No.4, District Ludhiana.

2. The case of the prosecution is that a complaint was lodged by mother of the prosecutrix averring that her elder daughter aged about 19 years was in search of job. On 18.06.2022, she and her husband were away for work and her daughters were at home. When she came back from work, she found that her daughter was weeping who disclosed that Satish Sarpal, her neighbour came to their house and told her daughter that there was no one in his house and told her to connect his phone with wifi. On the request of Satish Sarpal, her daughter went to his house and

connected his mobile phone with wifi. Satish Sarpal forcibly attempted to commit wrong with her daughter, upon which her daughter pushed him and returned to home and narrated his misdeeds. After sometime, Gaurav Sarpal son of Satish Sarpal, Poonam daughter of Satish Sarpal and Ritu Sarpal wife of Gaurav Sarpal entered into their house and caught her daughter from hair. Ritu gave slaps on her face and Gaurav gave kick blows to her.

3. Learned counsel for the petitioner, *inter alia* contends that FIR was registered against four persons and this Court vide order dated 25.08.2022 passed in CRM-M-34466-2022 and CRM-M-28764-2022 has granted anticipatory bail to three co-accused. The petitioner is in custody since 03.07.2022. The prosecutrix stands examined and she has not supported case of the prosecution. The petitioner is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Ludhiana. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Status report by way of affidavit dated 24.01.2023 of Ramandeep Singh Bhullar, P.P.S., Assistant Commissioner of Police (Central), Ludhiana, filed on behalf of respondent-State is taken on record. Registry is directed to tag the same at appropriate place.

5. Custody certificate dated 02.03.2023 is taken on record. Registry is directed to tag the same at appropriate place. As per the

custody certificate, the petitioner is in custody since 03.07.2022 and he is not involved in any other offence.

6. Learned State counsel submits that police report has already been filed and charges stand framed. He further submits that out of 19 witnesses only one witness i.e. the prosecutrix has been examined.

7. In the case in hand, three co-accused stand released on anticipatory bail. The prosecutrix stands examined and she has miserably spoiled case of the prosecution which is based upon statement of the prosecutrix. The petitioner is not involved in any other offence and he is in custody since 03.07.2022. There are 19 prosecution witnesses and till date only prosecutrix has been examined, thus, there is abysmally low possibility of conclusion of trial in near future. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

8. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail

subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

9. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

03.03.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>