

CRM-M-50624-2023 (O&M)

1

221

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50624-2023 (O&M)
Reserved on : 01.12.2023
Date of decision : 06.12.2023

Harcharan Singh @ Billa ... Petitioner(s)

Versus

State of Punjab ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. Harjinder Singh Sidhu, AAG Punjab.

ALKA SARIN, J.

1. This is a petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.97 dated 19.09.2022 under Section 376 of the Indian Penal Code, 1860 (Section 4 of the Protection of Children from Sexual Offences Act, 2012 added later on), registered at Police Station Bhavwala, District Fazilka (Annexure P-1).
2. The FIR in the present case was lodged on the statement of the mother of the victim who stated that on 18.09.2022 her three children went to the school and the victim, who was unwell, stayed at home. It was further stated that she and her husband left the victim with her mother-in-law and

when they came back in the evening they were told that when her daughter was playing during the day time, the accused (petitioner herein) took her to his house on the pretext of giving her something to eat. There he took her into the room and tied her mouth with a cloth and removed her clothes and committed rape upon her. When her daughter told the complainant about this, she went to the house of the accused (petitioner herein) where she was threatened. On the basis of the said complaint, the present FIR was lodged on 19.09.2022. The medical of the victim was conducted on 19.09.2022.

3. Learned counsel for the petitioner would contend that the petitioner has been in custody for a period of 01 year 02 months and 08 days and that as per the MLR there are no injury marks and even the FSL does not support the case of the prosecution inasmuch as the DNA has not matched. It is further the contention of learned counsel that though in the FIR it has been stated that the victim is a simpleton, but she can understand her gestures and signs, however, the Court has recorded her statement after ascertaining her competency to depose.

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 01 year 02 months and 08 days. Learned counsel for the State is not in a position to deny that the DNA has not matched and that the victim stands examined.

5. Heard.

6. In the present case the petitioner has been in custody for a period of 01 year 02 months and 08 days. As per the DNA Report, which has

since been received and handed over to the Court, the DNA has not matched. The MLR placed on the record also states that there are no external injuries seen. 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.

06.12.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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