

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-51040-2023

Date of Decision: 13.10.2023

Bhim Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. M.K. Dhot, Advocate for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 2nd petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 3 dated 16.01.2023 (Annexure P-1) registered under Sections 376(2)(n), 458, 323 and 506 read with Section 34 IPC (Section 201 IPC was added later on) at Police Station Cheema, District Sangrur.

The aforesaid FIR was registered on the basis of statement of the victim which is reproduced as under:-

“Statement of Rani wife of Ram resident of Model Town No.1 Shero aged about 35 years, phone no.88476-22476. Stated that I am resident of abovementioned address and a house wife and I have married about 15 years before with Ram son of Magi Das, resident of Model Town No.1 Shero, with whom I have three children, two daughter and one boy. Our neighbour Bhim Singh son of Jagan Singh resident of Model Town-1 Shero age about 40 years and about 6 years before I came into friendship with him and about two years before I came to know that Bhim Singh involved in many cases of excise and use to quarrel and due to fear from him I make distance from him. But he also many times by threatening me make physical relations with me. on

dated 10.01.2023 on Tuesday at about 3 PM noon he came to our house at that time my husband and children were at home. Who on coming forced me and by force make physical relations with me and yesterday on dated 15.01.2023 in the night about 10:30 PM Bhim Singh along with his accomplices Laddi Singh son of Jarnail Singh @ Jaili resident of Model Town-2, Shero aged about 21 years, and Sandeep Singh @ Boota son of Major Singh resident of Biggarwar aged about 22 years, by jumping a wall entered into our house. Bhim Singh on arrival in our house taken a piece of wood and hit upon the head of my husband Ram and his associate Sandeep Singh gave punch blow to my upon my husband and after hearing our noise, people gathered outside the house. Thereafter, all three persons opened the gate from inside and run from the spot on a motorcycle make Patiala Color Black which was parked outside.....”

Learned counsel for the petitioner, *inter alia*, submits that the aforesaid FIR was registered on the basis of statement of the victim herself. It is submitted that the date of incident is 15.01.2023, however, the aforesaid FIR has been registered after un-explained delay of 01 day, i.e. on 16.01.2023. In the present case, the victim is a 35 years old married lady. It is further submitted that although, in the FIR it has been alleged that the petitioner had hit the husband of the victim on his head, however, there is no medical evidence on record to support the allegations made in the FIR. It is also submitted that the present FIR emanates from a monetary dispute between the parties, in respect of which even Panchayat has also been convened. The petitioner has been in custody for around 08 months. 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 has filed custody certificate dated 12.10.2023, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 08 months

and 27 days. Learned counsel for the State further submits that as per custody certificate the petitioner is involved in 03 more cases under the Excise Act. He also submits that DNA report is still awaited; and that out of a total of 19 prosecution witnesses, 02 have already been examined, and that the victim in her testimony has supported the prosecution case.

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 out of a total of 19 prosecution witnesses only 02 have been examined by the trial Court, so far, therefore, conclusion of trial will take considerable time and no useful purpose would be served by further detention of the petitioner, the present petition is **allowed**.

The petitioner-Bhim Singh S/o Jagan 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.

13.10.2023

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**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No