

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

220

CRM-M-55593-2022 (O&M)

Date of Decision: 27.02.2023

Jagdeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Vishal Thakur, Advocate for the petitioner

Mr. Digvijay Nagpal, AAG, Punjab

(assisted by ASI Ranjit Singh)

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking regular bail in FIR No.238 dated 16.10.2021 registered under Sections 376 & 120-B of IPC (Section 120-B of IPC deleted later on), registered at Police Station Tanda, District Hoshiarpur.

2. The case of prosecution is that prosecutrix lodged a complaint dated 09.07.2021 with D.I.G. Jalandhar against Jagdeep Singh, Satnam Singh, Sampuran Kaur and Sukhwinder Singh alleging that Jagdeep Singh met her about 4-5 years ago and he started pressuring her for developing physical relations with him. He started enticing her and threatened to implicate her in false case. He also pressurized to perform marriage with him. She was allured by the accused and he committed rape upon her. He stated that he would perform marriage with her and on the pretext of marriage he physically exploited her. She

discussed this fact with her mother and accused assured her the he is ready to perform marriage with her. The parents of the accused agreed to perform their marriage, however, Jagdeep Singh was putting off the matter of performing marriage with her and he has finally refused. The family members of the accused have also refused to perform their marriage.

3. Learned counsel for the petitioner, *inter alia* contends that prosecutrix with an intent to perform marriage with petitioner has made allegations against him. There was no inducement or false promise on the part of petitioner to perform marriage with her. The prosecutrix before the Trial Court has resiled from her statement. The petitioner is in custody since 14.06.2022 and he 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 Hoshiarpur. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 23.02.2023 is taken on record. Registry is directed to tag the same at appropriate place. As per custody certificate, the petitioner is not involved in any other offence.

5. Learned State Counsel fairly concedes that prosecutrix has resiled from her statement and she has not supported case of prosecution before Trial Court, however, he submits that petitioner has committed serious offence of rape so he does not deserve concession of regular bail.

He further submits that police report has already been filed and charges stand framed. There are 13 witnesses out of which 7 witnesses have been examined which includes the prosecutrix.

6. In the case in hand, the prime allegation of the prosecutrix is that petitioner on the pretext of marriage has developed physical relations with her. The prosecutrix as well as petitioner are major. The prosecutrix has miserably spoiled case of the prosecution and she has been declared hostile. The petitioner is in custody since 14.06.2022 and he is not involved in any other offence. The petitioner, as disclosed by learned counsel for petitioner, prior to registration of FIR has performed marriage with another girl. There are 13 prosecution witnesses and till date only 7 witnesses have been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The material witness i.e. the prosecutrix stands examined. 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

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

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

8. 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

27.02.2023
Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No