

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

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CRM-M-56632-2022

Date of Decision: 23.03.2023

Satpal Singh Alias Satti

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Manjot Singh Cheema, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab
(assisted by ASI Surjeet 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.195 dated 16.08.2022 under Section 376 of Indian Penal Code, 1860 (for short 'IPC') and Section 4 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') registered at Police Station Sri Muktsar Sahib.

2. The case of the prosecution is that on the complaint of prosecutrix, an FIR came to be registered against Ravi who is an e-rickshaw puller. The prosecutrix in her complaint alleged that on 14.08.2022, Ravi took her away on his rickshaw but instead of dropping her to the house of Parma Rajinder, where she was working as maid, took her away to house of his sister. She asked him to drop her at the residence of Parma Rajinder but he did not listen to her. He brought a cold drink and offered her. After consuming

cold drink, she felt giddy and became unconscious. He thereafter, committed rape upon her.

3. Learned counsel for the petitioner, *inter alia* contends that petitioner was not named in the FIR and he has been implicated on the basis of statement of one person, namely, Mintu son of Joginder Singh. There is no medical evidence of rape. The prosecutrix and her mother stand examined and they have turned hostile which vindicates stand of the petitioner. The petitioner is in custody since 06.09.2022 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 Fazilka. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 21.03.2023 is taken on record. Registry is directed to tag the same at appropriate place.

5. Learned State counsel submits that police report has already been filed and charges stand framed. He further submits that out of 25 witnesses, 2 have already been examined which includes prosecutrix and her mother. He fairly concedes that prosecutrix and her mother have turned hostile.

6. In the case in hand, the prosecutrix at the first instance made serious allegation of rape against a rickshaw puller, who during investigation was found innocent. The petitioner was not named in FIR, however, on the basis statement of one person, namely Mintu, he was arrested. The prosecutrix and her mother have turned hostile. The petitioner is in custody since 06.09.2022 and he is not involved in any other offence. The Trial Court yet

has to return definite findings on the disputed issues. There are 25 prosecution witnesses and till date only 2 have 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.

7. 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.

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

23.03.2023
Mohit Kumar

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