

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****267****CRM-M No.61007 of 2022****Date of Decision : 04.09.2023**

Pankaj Kumar

....Petitioner

VERSUS

State of Punjab

....Respondent

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Gurbir Singh Sidhu, Advocate for the petitioner.

Mr. Harjinder Singh Sidhu, AAG Punjab.

**ALKA SARIN, J. (Oral)**

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.26 dated 06.05.2022 under Sections 365, 376-D and 120-B of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Bhadaur, District Barnala.

2. Learned counsel for the petitioner would contend that the petitioner was not named in the FIR and that for the first time his name surfaced in the disclosure statement of the main accused, namely, Kirna Kaur. Learned counsel for the petitioner would further contend that the victim while appearing as PW-3 did not identify the petitioner and has categorically stated that the petitioner was not the person who had committed rape upon her. Learned counsel for the petitioner has further referred to FSL Report wherein it has been stated in the conclusion that the

petitioner is not the perpetrator of the human semen on the Ex.A-12 and Ex.A-14. It is further the contention that the petitioner has been in custody for a period of 1 year 03 months and 26 days.

3. Learned State counsel is not in a position to deny that the petitioner was not named in the FIR and that his name surfaced only in the disclosure statement of the co-accused, namely, Kirna Kaur. Learned State counsel is also not in a position to deny that the victim did not identify the accused as one of the persons who had raped her. Custody certificate dated 03.09.2023 has also been filed as per which the petitioner has been in custody for a period of 01 year 03 months and 26 days.

4. I have heard learned counsel for the parties.

5. In the present case the petitioner was not named in the FIR and the petitioner has been named only by the co-accused, namely, Kirna Kaur in her disclosure statement. Though it has come in the status report that in the disclosure statement co-accused, Kirna Kaur, has stated that the petitioner was one of the persons who had raped the victim, however, the victim, while appearing as PW-3, has categorically denied that the petitioner had ever raped her and has infact not identified the petitioner.

6. In view of the above and without commenting upon the merits of the case, I deem 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.

7. 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.

8. 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.

9. Disposed off. Pending applications, if any, also stand disposed off.

( ALKA SARIN )  
JUDGE

04.09.2023  
jk

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