

210 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-2548-2024
Date of decision: 8th April, 2024

Avtar Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sachin Ohri, Advocate and
Mr. Sachin Gupta, Advocate for the petitioner.

Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Date	Police Station	Section(s)
55	18.05.2022	Sujanpur, Pathankot, District Pathankot	376 of Indian Penal Code, 1860 (for short ‘IPC’)

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of statement recorded by the complainant ‘S’ (name withheld) who is a seventy-five years old female alleging therein that she was a widow and residing with the petitioner (who is her son) and his children. On previous night only, herself and her son were present at home. During midnight, the petitioner who was under the influence of liquor forcibly opened the door of

her room and by catching hold of her from hair, forcibly committed rape upon her. On her complaint and after registration of FIR, the petitioner was arrested and presently, he is facing trial for offence punishable under Section 376 of IPC.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the complainant in her sworn deposition has not supported the version of the prosecution. The petitioner is in custody since 18.05.2022. His custodial interrogation is no more required. Therefore, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that the petitioner has committed a heinous crime and therefore, the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. Annexure P-2 is copy of sworn deposition of the victim as recorded before the learned trial Court on 05.09.2023 which shows that she did not support the version as given by her at the time of lodging of the FIR and recording her statement under Section 164 of Cr.P.C. and had been declared hostile by learned trial Court on request of learned public prosecutor. During the course of cross-examination by learned State counsel also, she had maintained the same stand, as such, she has taken U-turn. In view of the nature of the evidence which has come on record in the form of testimony of this witness, the period spent by the petitioner in custody and

the attendant facts and circumstances of the case, I am of the considered opinion that the petition deserves to be allowed. Hence, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]

JUDGE

8th April, 2024

Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No