



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210

CRM-M No.4538 of 2024
Date of Decision: 27.05.2024

Gurlal Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Atul Jain, Advocate,
for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J.(Oral)

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

FIR No.	Police Station	Sections
181	Sultanpur Lodhi, District Kapurthala	376 of IPC and 6 of Protection of Children from Sexual Offences Act, 2012 (For short "POCSO Act")

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on 23.08.2023 on the basis of statement recorded by the complainant "S" (name withheld) alleging therein that she was a labourer and used to live with her family in the haveli of the accused Charanjit Singh. The victim "A" (name withheld) was her specially abled daughter aged about nine years and was unable to speak and hear. On 21.08.2023, she along with

2024.PHHC:076618



her family had slept in the rooms provided by the accused Charanjit Singh in his haveli. At about 10 PM, she had woken up for easing herself and found her daughter to be missing. She started making search for her and found the accused Charanjit Singh while committing rape upon her daughter. She raised alarm on hearing which the accused Charanjit Singh fled away. The clothing of her daughter was found soaked with blood. In the morning, the matter was discussed with the respectables of the village but to no avail and, therefore, she prayed for taking action against the culprit. Initially, a case under Section 376 of IPC and Section 6 of POCSO Act was registered. Investigation proceedings were initiated. During investigation, accused Charanjit Singh was arrested. He suffered disclosure statement admitting his involvement in the commission of offence of rape of the victim and also disclosed that the victim had also been subjected to rape by the present petitioner on the same night. On the basis of this disclosure statement, the present petitioner was also nominated as an accused. Offence under Section 376 BD of IPC was included. The petitioner was arrested on 25.08.2023. Offence under Section 376 BD of IPC was deleted and offence under Section 376 DA of IPC was added. After completion of necessary investigation and usual formalities, challan was presented before the trial Court and presently, the petitioner along with the co-accused is facing trial.

3. The petitioner had moved an application for grant of regular bail before the learned trial Court which had been dismissed vide order dated 04.11.2023.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of disclosure statement of

2024.PHHC:076618



the co-accused. He was neither named in the FIR nor the complainant who was an eye-witness to the occurrence had taken his name as the person who had committed rape upon the minor victim. The disclosure statement of co-accused was not admissible in evidence. The mother of the victim has been partly examined and there are no chances of his intimidating her. The trial is likely to take time. No useful purpose would be served by keeping him in custody. With these broad submissions, it is urged that the petition deserves to be allowed and he deserves to be extended benefit of bail.

5. Status report has been filed by the respondent-State, as per which, there were specific and serious allegations against the petitioner. DNA report had been received as per which, human semen was detected on the vulval swab, anterior and posterior vaginal swabs, lateral vaginal swab, fornix swab and cervical swabs of the victim and the same matched with the DNA profile of blood samples of the present petitioner as well as the co-accused Charanjit Singh. It is argued that there are chances of petitioner's intimidating the witnesses or absconding if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

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

7. The petitioner along with the co-accused is alleged to have committed the offence of aggravated penetrative sexual assault upon the minor victim who is a specially abled child of tender age of nine years and was not even in a position to raise any rescue alarm being unable to speak and hear. Unfortunately, her mother was an eye-witness of the fact that when the co-accused Charanjit Singh was ravishing her. No doubt, she had not

2024.PHHC:076618



seen the petitioner while committing rape upon the victim. However, the medical examination of the victim was conducted shortly after the occurrence and DNA of the seminal stains detected on the vaginal swabs of the victim has matched with the DNA blood profiling of the petitioner as well as the co-accused which is an important piece of evidence coming on record as against the petitioner. The mother of the victim has been partly examined. Her cross-examination is yet to be conducted and there are chances of petitioner’s intimidating her, if extended benefit of bail. The allegations against the petitioner are quite grave in nature. The trial has commenced and there is nothing on record to show that there would be any undue delay in conclusion of the same. Keeping in view the gravity of the allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, but without meaning to make any comment on the merits of the case, I am inclined to hold that the petition does not deserve to be allowed. Therefore, the same is dismissed.

27.05.2024
manju

(MANISHA BATRA)
JUDGE

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