



CRM-M-5377-2024 (O&M)
DATE OF DECISION : 31.05.2024

GAURAV KUMAR ... PETITIONER

V/S

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. J.S.Randhawa, Advocate for the petitioner.
Ms. Sakshi Bakshi, AAG, Punjab.
Mr. Puneet Singla, Advocate for the complainant.

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HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in case FIR No. 191 dated 09.08.2023 under Sections 376(2)(L), 452 IPC, registered at Police Station Kotwali, District Kapurthala.
2. Notice of motion.
3. On the asking of the Court, Ms. Sakshi Bakshi, AAG, Punjab accepts notice on behalf of the respondent-State and Mr. Puneet Singla, Advocate has put appearance on behalf of the complainant.
4. Custody certificate dated 28.05.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the petitioner has undergone 09 months and 18 days of custody.
5. Learned counsel for the petitioner contends that the complainant and the prosecutrix have not supported the case before the trial Court when

they appeared as PW1 and PW2. The statement of the complainant as PW-1 recorded on 04.05.2024 and the statement of the victim recorded as PW-2 on 04.05.2024 by the trial Court has been submitted.

6. Learned State counsel has filed the status report by way of affidavit of Harpreet Singh, PPS, Deputy Superintendent of Police, Sub Division Kapurthala, as per which the case was registered at the instance of the complainant-husband of the victim.

7. I have considered the aforesaid contentions and perused the paper book.

8. As per the statement recorded under Section 164 Cr.P.C., the victim has not supported the prosecution case. As per the status report, the husband and mother of the victim did not consent for medical examination of the victim and even the non-consent given by the husband and mother of the victim has been thumb marked by the victim. The victim when appeared as PW2 during the trial was declared to be a competent witness on the basis of the preliminary questions having been asked by the trial Court. The victim disclosed that she is 21 years of age and is married to complainant-Raj Singh. She has not levelled any allegations against the petitioner. Even in the affidavit (Annexure P-5), the complainant has submitted that the FIR was got registered on the basis of a suspicion and misconception.

9. In view of the aforesaid facts and circumstances, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

10. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

11. Pending miscellaneous application(s), if any, shall stand disposed of.

31.05.2024

Janki

**(HARPREET KAUR JEEWAN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No