

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

210

CRM-M-4721-2023

Date of decision:12.01.2024

Sardool Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ajay Kumar, Advocate for
Mr. Rishu Mahajan, Advocate for the petitioner.
Mr. Adhiraj Singh Thind, AAG Punjab.

SUMEET GOEL, J.

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.35 dated 16.04.2022, registered for the offences punishable under Sections 376 IPC and Section 6 of POCSO Act 2012 at Police Station Ramdas, District Amritsar.

2. The case set up in the FIR in question is as follows:-

Statement of Smt. Raj Kaur wife of Manjit Singh, resident of village Chogawan, Tehsil Ajnala District Amritsar age around 35 years, mobile No. 62392-02242 state that I am resident of the aforementioned address and I am a housewife. We are three brothers and sister. My younger brother Gurbinder Singh son of Tarsem Singh resident of village Talwandi Bhangwan, Tehsil Ajnala District Amritsar. He is working as a truck driver. He has two sons and a daughter. Around two years back my sister-in-law Kajal had left her husband and children and eloped with some other person. My brother Gurbinder Singh around 2 years back married a woman Chinta Devi from Bihar who had no children. My brother had gone somewhere on truck duty. My sister-in-law is working as a house maid at town Fatehgarh Churhian. Around 2- 21/2 (two or two and half) months back around date 02.02.2022 my niece Muskan daughter of

Gurpinder Singh aged around 13-14 years was alone at her house. At around 12:00 PM that Sardool Singh son of Babbu resident of village Talwandi Bhangwan, Tehsil Ajnala District Amritsar came to the house of my brother. He found my niece Muskan alone at her house. He threatened her and raped her forcibly. Then around one month back also Sardool Singh son of Babbu threatened her and raped her forcibly. Today I came to see my brother Gurpinder Singh at his house at village Talwandi Bhangwan, Tehsil Ajnala District Amritsar. My sister-in-law is resident of Bihar hence she does not know Punjabi language. My niece Muskan intimated me this entire incidence Today I along with my sister-in-law and my niece Muskan has come to the Police station to complain this incidence. You have met me, I have narrated the whole incidence to you. I will pursue the case a legal action be taken against aforementioned Sardool Singh son of Babbu resident of village Talwandi Bhangwan, Tehsil Ajnala District Amritsar. I have read the statement and the same has been read over to me and I admit it to be correct Sd/- Raj Kaur”

3. Learned counsel for the petitioner has argued that investigation in the case has already completed and trial is underway wherein material prosecution witnesses have turned hostile. On that premise, learned counsel for petitioner argues that in view of the testimony already on record of the complainant and the prosecutrix, who have turned hostile, it does not appear to be a case of conviction and in all likelihood, trial is likely to result in acquittal of the petitioner. Learned counsel further submits that petitioner is in custody since 21.05.2022 & allegations against the petitioner are a matter of adjudication of trial. Thus, no useful purpose would be served by detaining the petitioner in custody any longer.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. Petitioner is in custody since 21.05.2022; investigation already stands completed and thereafter challan has been filed on 15.06.2022 wherein total 14 prosecution witnesses have been cited; PW-1 (Raj Kaur-complainant and PW-2-Muskan-Victim) have been declared hostile before the trial Court; the weightage required to be attached to the hostile witnesses will be seen during the course of trial; petitioner has undergone about 01 year and 08 months of incarceration & there is no tangible material brought forward to show any reasonable apprehension of the petitioner fleeing from the process of law or tampering with the prosecution evidence. Keeping in view entirety of the facts and circumstances of the case, this Court does not deem it appropriate to keep the petitioner in further detention.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.

- (vii) The petitioner shall not in any manner try to delay the trial.
8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.
9. Ordered accordingly.
10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

January 12, 2024
Ajay

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