



203

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8576-2024
Date of Decision:- 13.05.2024

SUNIL KUMARPetitioner

Versus

STATE OF PUNJAB ...Respondent

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Sachin Ohri, Advocate
for the petitioner.
Mr. H.S. Deol, Sr. DAG, Punjab.

AMARJOT BHATTI, J. (Oral)

1. Petitioner – Sunil Kumar has filed the instant 2nd petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.99 dated 23.05.2021, under Sections 376, 450 and 506 IPC and Section 4 of POCSO Act registered at Police Station Shahpukandi, Pathankot, District Pathankot (Annexure P-1).
2. The facts of the case are that prosecutrix, aged about 17 years, gave her statement to the police that she was studying in Senior Secondary School in Class 12th. Her date of birth is 28.12.2004. Since her birth, she was residing in the house of her maternal grand-parents. Her maternal uncle and aunt had gone out and she was present in the house along with her maternal grand-parents. On 20.05.2021, she was sleeping in her room and at about 10.30 pm Sunil Kumar entered her room and forcibly put a tablet in her mouth. She was threatened not to raise alarm. She became



unconscious. In the morning, she came to know that she was raped by Sunil Kumar. The strip of medicine was also lying near her. On the arrival of her maternal aunt, she disclosed about the occurrence and the matter was reported to the police.

3. Learned counsel for petitioner argued that allegations levelled against him are false. Earlier he had filed regular bail application bearing CRM-M-27038-2021 which was dismissed as withdrawn vide order dated 27.03.2023 (Annexure P-2). He is behind the bars since 23.05.2021. At present statement of material witnesses have been recorded. His regular bail application was declined by learned Additional Sessions Judge, Pathankot vide order dated 05.07.2021 which is Annexure P-4. He is ready to abide by the terms of bail order. It is prayed that his second regular bail application may be allowed.

4. Learned State counsel has opposed bail application and has also filed detailed status report confirming that after completion of investigation, challan has been presented in the Court and chargesheet was framed on 18.01.2022. Prosecution has examined four material witnesses and rest of the prosecution evidence is still pending. During the course of arguments, learned State counsel has placed on record custody certificate along with Forensic DNA test report dated 19.04.2024, which is taken on record. It is argued that considering the gravity of offence, 2nd regular bail application filed by petitioner may be declined.

5. I have considered the arguments and have gone through the record. The FIR was registered on the statement of prosecutrix who has levelled allegations of rape against the present petitioner/accused Sunil Kumar. She has mentioned her date of birth as 28.12.2004 and at the time

of alleged occurrence she was student of 12th class. After completion of investigation, challan is already presented and the trial is under progress. Status report shows that statement of victim along with other witnesses have been recorded. Statement of prosecutrix recorded as PW1 is also produced where she has confirmed the allegations. The forensic DNA test report is also perused which will be appreciated at appropriate stage by the learned trial Court. It cannot be ignored that present petitioner is behind bars for a period of about 3 years. Other material witnesses are yet to be examined, at this stage, and the victim is already examined. Therefore, there is no question that petitioner will be able to influence the prosecutrix. Therefore, considering the aforesaid facts without expressing my mind on the merits of the case, regular bail application filed by petitioner Sunil Kumar is allowed. He is ordered to be released on bail on furnishing bail bonds/surety bonds to the satisfaction of trial Court/Duty Judge concerned.

6. Pending application (s), if any, also stands disposed of.

13.05.2024
snd

(AMARJOT BHATTI)
JUDGE

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