

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

210

CRM-M-8211-2024

Date of Decision: 20.04.2024

Jaskaran Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. B.S. Bajwa, Advocate for the petitioner.

Mr. S.S. Chahal, AAG, Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 44 dated 07.04.2023 (Annexure P-1) registered under Sections 363, 366, 376(2)(n) IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Nurpur Bedi, District Roopnagar.

The aforesaid FIR was registered on the basis of statement of the father of the victim which is reproduced as under:-

“Statement of Moti Lal son of Dharam Pal resident of Near Forest Rest House Village Kahanpur Khohi PS Nurpurbedi District Rupnagar aged 55 years Mobile number 82889-74212. It is stated that I am resident of the aforesaid address and I do labor work. I have 4 children. In which there are 3 boys and 1 girl. My daughter Shabnam aged 14 years who yesterday dated 6-4-2023 around 6:50 PM left house without informing anyone. After that we checked the CCTV footage of cameras installed at Global College Village Kahanpur Khohi near Chaudhuri Auto Electrician. After that we saw in

the footage that between time period 7:02 PM to 7:20PM my daughter was standing with unknown boy and was talking on phone with someone else and the unknown boy wearing red shirt was seen taking away my daughter. Me and my family members tried find them but are unable to do so till now, so appropriate action should be taken against the aforesaid person. Today I along with my son Ajay Kumar came to the police station to write my statement and have heard it and is correct to my knowledge.....”

Learned counsel for the petitioner, *inter alia*, submits that at the time of alleged incident, the victim was stated to be 14 years of age. It is submitted that the victim was in love with the petitioner. Learned counsel submits that on the date of incident i.e. 06.04.2023, the victim had left her house at 6:50 PM and then called the petitioner, and asked him if, he does not come to meet her then she will cut her veins. Accordingly the petitioner went to meet her. At around 7:00 PM the victim had cut her veins; and the petitioner reached there at around 7:20 PM. Thus, it is submitted that the petitioner has falsely been implicated in the present case. Learned counsel for the petitioner refers to the statement of the victim recorded under Section 164 Cr.P.C. (Annexure P-2), wherein the victim (at page 11 of the paper-book) has stated as follows:

“This is correct that on 6-4-2023 around 7:00 PM in the evening I left my house. I went from there willingly and the accused never forced me to do so. Accused told me to go back to my house but I didn’t listened to him. I stayed with the accused till now. We have not done any marriage. Physical relation were made between me and accused willingly. There is no influence of any third person in this and no wrong has been committed by the accused in this and no one has pressurized me. I know the accused from the past one and half years. I do not want to say anything except this statement.

Learned counsel has also referred to the cross-examination of the victim (Annexure P-3) wherein as PW-1 she has stated that *‘We started from home at about 7PM and at that time, I was alone. I cut the*

vein of my left arm with blade due to anger at about 7 PM. At that time, I also telephoned accused Jaskaran Singh'. Further, learned counsel for the petitioner submits that both the petitioner and the victim were apprehended by the police and the victim was taken up for medical examination. Learned counsel for the petitioner refers to the MLR (Annexure P-5) of the victim, wherein it has been recorded that "Victim had fresh self-inflicted cuts on anterior aspect of the right forearm". The petitioner has been in custody since 14.04.2023. The trial is likely to take long time. No useful purpose would be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner be released on regular bail.

Learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and submits that although, it is stated in the FIR that at the time of alleged incident, the victim was 14 years of age, however, as per her medical examination she was determined to be 16-year-old. He further submits that DNA report is also positive.

Learned counsel for the State has filed custody certificate dated 19.04.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 01 year and 03 days. As per custody certificate, there is no other case against the petitioner. On instructions from ASI Mehar Singh, learned counsel for the State further informs that out of total 23 prosecution witnesses, 06 have have already been examined so far.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality

of the facts and circumstances of the case; including the custody period undergone by the petitioner and perusal of the custody certificate reveals that there is no other case against the petitioner; and the fact that material witnesses have already been examined; and also the fact that conclusion of trial will take considerable time as out of total 23 prosecution witnesses only 06 have been examined so far, and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.

The petitioner-Jaskaran Singh S/o Sarwan Singh is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

20.04.2024

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(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No