

CRM-M-10067-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-10067-2024

Date of decision: 29.02.2024

Gurbhej Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rajeshwar Singh, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.

SUMEET GOEL, J. (Oral)

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.37 dated 16.02.2023, registered for the offences punishable under Sections 376, 506, 452 of IPC and Section 4 of POCSO Act at Police Station Sadar, Patti District Tarn Taran.

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

“Statement of Manpreet Kaur d/o Pistol Singh resident of Sabhra, aged about 16 years 2 months, PS-Sadar, Patti, District Tarn Taran, Phone No.98728-12085. It is stated that I am resident of the aforesaid address. I was born about 16 years back from the alliance of my mother Paramjit Kaur and father Pistol Singh. For the last 3/4 years my mother is living at undisclosed place. My father is an Agriculturist. We are three brothers and sisters. My elder brother is Sikandar Singh, who is working as an Agriculturist along with my father. I am younger to him I have studied upto 6th Class from the School situated at my village. The youngest to me is my brother Akashdeep Singh, who is studying in 6m Class. On 8.2.2023 at around 12:00 to 1.00 P.M., I was alone in my house. I was washing clothes in my bathroom. My father and my elder brother had gone to the fields. My younger brother Akashdeep Singh had also gone outside in the Village. A boy, namely, Gurbhej Singh son of Sukhdev Singh resident of

Sabhra, who is living in my neighbourhood entered in my house and on seeing me alone in the house, he came to the bathroom. He forcibly took me to the bedroom and bolted the door. He forcibly removed my clothes i.e. shirt and trouser. I objected to it and raised voice then Gurbhej Singh put his hand on my mouth. In spite of my refusal time and again he made physical contacts with me. After 15/20 minutes my brother Akashdeep Singh came back to house. On seeing my brother, Gurbhej Singh ran away after jumping over the wall. I was weeping. My brother called my father on telephone. After sometime my father came back home. I told him the entire incident. I objected to it a lot. I was threatened if I talk to anyone regarding this, then, the consequences shall be bad and I should keep quiet and that will be beneficial for me. Thereafter I and my family did not talk to anyone. Today after regaining courage I along with my father has come to give information to you. Gurbhej Singh aforesaid after entering into my house has forcibly made physical contacts with me and has threatened me. It is requested that action should be taken against him. I have got written this statement, which is correct. Sd/- Manpreet Kaur, seconded by LTI Pistol Singh resident of Sabhra, Attested by SI Sunita Rani.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 18.02.2023 and investigation in the case is already complete. Learned counsel has further argued that the victim (when examined as PW-1), father of the victim (when examined as PW-2) & brother of the victim (when examined as PW-3) have turned hostile and in all likelihood, the trial is not likely to culminate into conviction of the petitioner. Thus, it is argued that no useful purpose would be served by keeping the petitioner behind the bars.

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. Learned State counsel seeks

to place on record custody certificate dated 28.02.2024 in Court, which is taken on record.

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

6. The petitioner was arrested on 18.02.2023 whereinafter investigation was carried out and challan was presented on 13.04.2023. Total 15 prosecution witnesses have been cited out of which the star/material prosecution witnesses i.e. the victim, her father and her brother stand examined. The rival contention of learned counsel for the parties, regarding the weightage required to be attached to the testimonies of the hostile witnesses, shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing perceptible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. As per custody certificate dated 28.02.2024 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of about more than 01 year and is not shown to be involved in any other case. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

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/Illaqa 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

February 29, 2024
Ajay

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