

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-12101-2024

Date of decision:24.04.2024

Gurmit Singh

...Petitioner

V/s

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Hardeep Singh, Advocate for the petitioner.
(through Video Conference).

Mr. Anup Singh AAG Punjab.

Mr. Bikram Chaudhary, Advocate for respondent Nos.2 and 3.

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.7 dated 19.01.2024, registered for the offences punishable under Sections 376 and 506 of IPC and Sections 4 and 6 of POCSO Act at Police Station Julkan, District Patiala.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

"It is recorded at this time that one statement of Rajwinder Kaur wife of Gurcharan Singh resident of village Ahujan, Police Station Julkan, District Patiala written by INSP Ramla Devi 319/PTL, Police Station Julkan was received at police station Julkan through the hands of PHG Mukhtiar Singh 18305 for registration of a case u/s 376, 506 IPC, 4, 6, POCSO Act for registration of a case, contents of which are, "statement of Rajwinder Kaur wife of Gurcharan Singh resident of village Ahujan, Police Station Julkan, District Patiala, aged about 45 years Mobile number 8427174509, stated that I am resident of above mentioned address and I am a house wife (do household chores). Name of my father is Bagga Singh, who solemnized my marriage about 20 years ago at Patiala, out of which wedlock I had three children, elder son named Gopi Singh, younger

to him Komalpreet Kaur and younger to her named Khushpreet Kaur alias Nancy. My husband was habitual drug addict, who used to give beatings under the influence of drugs/contraband and by getting fed up from him, I left him and solemnized my marriage with Gurcharan Singh of village Ahujan, Police Station Julkan and had come to him along with my three children. Now two children have taken birth out of the wedlock of Gurcharan Singh. My daughter Khushpreet Kaur alias Nancy, who had been residing with my husband's elder brother Gurmeet Singh son of Inder Singh i.e. with her paternal uncle (TAYA) Gurmeet Singh, after death of his wife. Since few days, my daughter Khushpreet Kaur alias Nancy was frightened and frustrated, to whom today I made sit and heard her grievance, on which, my daughter said that my TAYA (paternal uncle) had been committing forcible rape upon her from the last two years. For the very first time he committed rape with me at village Ahujan in his room, but I didn't say anything to anybody else due to fear and now for the last time in the month of November, 2023, he committed rape with my daughter at village Ahujan, where my brother-in-law (JETH) i.e. above mentioned Gurmeet Singh is residing. Today my daughter has told whole story to me while weeping and on hearing this story, I along with my daughter have been coming to the Police Station, Julkan for lodging a complaint for the purpose of seeking justice, but you met us near village Ibrahimpur turning point. I have recorded my statement to you, which is correct. Appropriate action may please be initiated against above mentioned Gurmeet Singh. RTI Rajwinder Kaur.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 19.01.2024. Learned counsel has further, relied upon the affidavit dated 29.01.2024 (copy whereof has been appended as Annexure P-3 with the present petition) sworn in by the complainant Rajwinder Kaur (mother of the victim), to argue that the petitioner has been falsely implicated into the FIR in question. In this view of the matter, learned counsel has prayed for grant of regular bail.

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 24.04.2024 in Court, which is taken on record.

Learned State counsel, on instructions from ASI Surender Singh, has also submitted that a *kalandra* under Section 182 of IPC has been filed against the complainant Rajwinder Kaur, which is pending adjudication before the competent Court for 20.05.2024.

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

6. The petitioner was arrested on 19.01.2024 whereinafter investigation was carried out and challan stands presented on 07.03.2024. Total 17 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the parties; regarding the weightage required to the affidavit dated 29.01.2024 sworn in by the complainant-mother of the victim (copy whereof has been appended as Annexure P-3 with the present petition); 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 tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 24.04.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 03 months & is not shown to be involved in any other case.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case. Needless to say

that the proceedings in the *kalandra* filed against the complainant shall be proceeded with in accordance with law.

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

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11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

April 24, 2024
Ajay

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