

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

229

CRM-M-14764-2024

Date of decision:02.04.2024

Surjeet Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sandeep Verma, 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.36 dated 29.03.2023, registered for the offences punishable under Sections 376, 506, 34 of IPC at Police Station Vairoke, District Fazilka.

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

Statement of Sukhwant Kaur daughter of Surinder Singh resident of Village Chak Khaduj alias Kaniya wali, age about 29 years Mobile No. 95011-22267 stated that I am resident of above-mentioned address and passed M.A. in History in the year 2017. After completing my study I work as in my household activities, I have one brother Baljinder Singh, who is younger to me and is married. My father Surinder Singh works in the fields. And my mother works as a housewife. My aunt Veerpal Kaur wife of Tarsem Singh son of Harbhajan Singh, is a resident of Village Wadia tehsil Shri Muktsar Sahib, she has a son named Surjit Singh, age about 28/29 years, who has opened a Mobile shop in his house. Who about two months ago came to our house at about 1:00 am in the daytime. That on that day nobody was available at our house. My parents were not in the house. My brother was gone to take medicine for my sister-in-Law. I served tea and water to my aunt's son. After drinking water and tea, he asked about my parents and brother and sister-in-Law. I told him that my mother and father had gone to Mari Mustafa Village. And brother and sister-in-Law have gone to Shri Muktsar Sahib for getting medicine. My aunt's son Surjit Singh saw me in the house all by myself, his intentions

were bad and he started misbehaving with me. I stopped him by scolding him. But he didn't stop, then Surjit Singh forcefully opened the string of my salwar and raped me. I cried because I was alone in the house, but he closed my mouth with his hand. He threatened me, if you tried to tell your parents and brother and sister-in-Law about this then I will kill you. After saying this my cousin (son of my aunt) Surjit Singh went on his motorcycle. I didn't say anything to anyone because he was a relative. Then after 15/20 days, my aunt Veerpal Kaur and her son Surjit Singh came to our house in their car. That day we were all at home. Then my aunt told my mother that she often remains ill, so you kindly send your daughter Sukhwant Kaur with me for 5/7 days who is also like my daughter. Upon which my mother send me with my aunt. My aunt's another son Harpreet Singh who is in army; his wife had gone to her parents. Both the sons of my aunt were at home. My aunt mixed something intoxicant material in my food, due to which after taking the meal I fell asleep. Then my aunt's both sons, in connivance with each other Surjit Singh made obscene videos of mine. My aunt's son on the second day started to blackmail me by showing my obscene videos. I called my father from their phone on the second day to bring me home. My father at about 4-5 pm took me with him on the same day from my aunt's house. Fearing the prestige of my parents, I did not talk to anyone, who then started calling me at home, I did not pick up the phone and gave phone to my mother. On dated 25.03.2023 time about 11-12 O'clock my aunt's son came to our house on his motorcycle on that day also I was alone at home as my mom and dad had gone to relatives with and my brother and sister-in-Law were also gone to Shri Muktsar Sahib for getting medicine. My aunt's son Surjit forcibly made illicit relation with me seeing me alone in the house. It was Late in the evening my parents came to the house I was crying. My mother asked me the reason of my crying. I told my mother about the same. Then my father called my aunt's son that he had done a bad thing, who in response threatened my father that if you talk to anyone or tried to take action, then I will make your daughter's video viral which will cause undue insult among the relatives and will keep on coming at your house. On which my parents took me at Civil Hospital, Jalalabad for conducting medical check up on 28-03-2023, which was an advice of my aunt's son Surjit Singh and my aunt Virpal Kaur. That Surjit Singh has made forced illicit relations with me. Legal action should be taken against both of them. I have got recorded my statement and which has been read over and is correct, Sd/- Sukhwant Kaur”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 01.04.2023. Learned counsel has further argued that the petitioner is a disabled person having disability to the extent of 60 percent *qua* limb since his lower limb stands amputated. He has placed reliance upon the disability certificate in this regard (copy whereof has been appended with the instant petition as Annexure P-3). It has been further argued that the petitioner has been falsely roped into the present case on account of a monetary dispute between the family of the petitioner and the family of the victim. Learned counsel has further argued that the police had exonerated the mother of the present petitioner during the course of investigation whereinafter an application under Section 319 of Cr.P.C. has been filed by the prosecution for summoning of his mother as an additional accused. In this view of the matter culmination of the trial will take long time to conclude, learned counsel has prayed for grant of regular bail to the petitioner.

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 01.04.2024 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 01.04.2023 whereinafter investigation was carried out and challan was presented on 31.05.2023. Total 19 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the

parties; as to whether the FIR in question has been falsely lodged on account

of a monetary dispute or as to whether the petitioner (who is a disabled person) could have committed such an offence; 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 01.04.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year & 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.

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/Illaqqa 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

April 02, 2024
Ajay

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