

Sr. No.222

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18427-2023
Date of decision: 04th April, 2024

GURSEWAK SINGHPetitioner

versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Rajiv Kumar Sarwate, Advocate
for the petitioner.

Mr. Adesh Pal Singh, AAG, Punjab.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in case FIR No.87 dated 27.07.2019, under Section 376 IPC, 1860 and Section 66(A) of Information Technology Act, 2000 (Section 6 of Protection of Children from Sexual Offences Act, 2012, added later on), registered at Police Station Khukhi Khera, District Fazilka (Annexure P-5).
2. The present FIR was registered at the instance of the prosecutrix "PKXX", who is stated to be aged 16 years and 06 months, with the allegations that the petitioner had committed rape upon her by threatening to upload her obscene videos on WhatsApp and other social media platforms. It is further an allegation in the FIR that on 22.07.2019, the father of the prosecutrix took her to the hospital for conducting her medical examination but she was not admitted in the hospital.
3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The petitioner was earlier granted

the co-ordinate Bench of this Court (Annexure P-6). As per the said order, the petitioner joined investigation. However, later on, offence under Section 6 of the Protection of Children from Sexual Offences Act, 2012 was added instead of Section 376 IPC, 1860 vide GD No.23 dated 08.02.2023 (Annexure P-7). It is further contended that the petitioner is in custody since 08.03.2023. The petitioner and the complainant solemnized marriage on 10.04.2021, as per the Marriage Certificate (Annexure P-2). The petitioner and the complainant also filed a complaint before the Punjab State Human Rights Commission, Chandigarh on account of threat perception to their life and liberty, whereby, order (Annexure P-3) was passed by the said Commission. The prosecutrix also executed affidavit dated 02.08.2021 (Annexure P-4) confirming the above-said facts. It is further contended that out of the wedlock, a female child was born to the petitioner and the prosecutrix and during the pendency of the present petition, they have been blessed with another child. The statement of the prosecutrix "PKXX" (PW-1) has already been recorded by the trial Court on 01.09.2023. Certified copy of the said statement has been submitted in the Court today, which is taken on record.

4. Status report by way of affidavit of Sh. Shubeg Singh, PPS, Deputy Superintendent of Police, Sub-Division Fazilka, filed by the learned State counsel on behalf of respondent-State of Punjab, is already on record.

4.1 Learned State counsel, on instructions from ASI Birbal Singh, has informed that challan has been presented against the petitioner on 17.03.2023 and charges were framed on 03.05.2023. Thereafter, some of the prosecution witnesses have also been examined.

4.2 Learned State counsel has filed custody certificate of petitioner/accused Gursewak Singh, reflecting his period of custody as 01 year and 27

5. I have considered the aforesaid contentions.
6. Investigation is complete. Challan has been presented. Statement of the prosecutrix has already been recorded, as per which, she has not supported the prosecution case. However, the prosecutrix has stated in her statement dated 01.09.2023 that she is happily living in her matrimonial home. She is married to the petitioner-Gursewak Singh, who is in custody. She solemnized marriage with the accused/petitioner against the wishes of her father, due to which, her father has grudges with her husband (petitioner).
7. Though the charges have been framed against the petitioner under Section 6 of the Protection of Children from Sexual Offences Act, 2012, however, the prosecutrix is now major. She is happily married to the petitioner and 02 children are born out of the wedlock. Conclusion of trial is likely to take time. There is no apprehension of absconding of the petitioner, as such, without commenting on the merits of the case and keeping in view the above facts, the present petition is allowed.
8. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds/surety to the satisfaction of the trial Court/CJM, concerned.
9. All the pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

04th April, 2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No