

205

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17949-2024 (O&M)

Date of Decision: 19.04.2024

Gulab Singh

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. J.K. Singla, Advocate and
Ms. Ritika Ravish, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

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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.173 dated 13.10.2023, registered for the offences punishable under Sections 376 and 506 IPC (Section 452 IPC was added later on) at Police Station City-1, Mansa, District Mansa.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Copy of statement, Statement of Sukhpal Kaur wife of Sukham Singh, resident of Ubha now near Saheed Bhagat Singh Chowk, Mansa aged about 30 years, M.No.98884-92947 stated that I am resident of above mentioned address and is a household lady. My marriage was solemnized about 12-13 years ago with Sukham Singh and three children were born out from our both wedlock. Few years ago, due to matrimonial dispute with my husband then thereafter, I started residing with Gulab Singh Son of Malkit Singh by performing Krewa with the orders of Hon'ble Court and thereafter, Gulab Singh got solemnized marriage with Amandeep Kaur and thrown away me from house. Thereafter, I alongwith children went to my first husband Sukham Singh but now I have no relation with Gulab Singh Son of Malkit Singh, resident of Thuthiyan wali but Gulab Singh started harassing me and forcefully entered my

house and told me that nobody can stop me and you cannot do anything with me and I will come as it as. On 11.10.2023 at about 6:00 in evening Gulab Singh has come into our house and forcefully closed the door of my bedroom and committed rape with me forcefully. I stopped hardly then he abused me, beaten and told me that will come again in night and nobody can stop me. Legal action be taken against him and justice be provided to me. Statement got recorded with you, heard, correct. Sd/- Sukhpal Kaur.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 13.10.2023. Learned counsel for the petitioner has further argued that the petitioner has been falsely implicated in the FIR in question on account of a dispute between the petitioner and the victim/complainant as they are living in the same neighbourhood. Thus, regular bail is prayed for.

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.

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

6. The petitioner was arrested on 13.10.2023 whereinafter investigation was carried out & challan was presented on 12.12.2023. Total 14 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of the learned counsel for the parties; as to whether the petitioner has been falsely implicated in the FIR in question on account of a dispute arising between the petitioner and the victim/complainant; shall be gone into during the course of 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. The petitioner is stated to be a young man aged about 21 years

18.04.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 6 months. 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 totality of factual matrix of the present case, the instant 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/Illaqha 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.

19.04.2024

(SUMEET GOEL)

Jasmine Kaur

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No