

2024:PHHC:015088

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-20509-2023

Date of decision:05.02.2024

JASWINDER SINGH ALIAS JASSA HALWAI

....Petitioner

V/S

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vikas Gupta, Advocate, for the petitioner.

Mr.Hemant Aggarwal, 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.146 dated 15.10.2021, registered for the offences punishable under Section 376 of IPC and under Section 3 & 4 of the POCSO Act, 2012, at Police Station Sadar Patti, District Tarn Taran.

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

“Statement of Mehakpreet Kaur D/o Gurpreet Singh resident of Village Saidpur, P.S. Sadar Patti, aged about 13 years, Mobile No. 73473-23140. It is stated that I am a resident of abovementioned address and I am studying in Class 10th in Government High School, Saidpur, P.S. Sadar Patti. I used to talk with my village boy namely Jaswinder Singh @ Jassa Halwai S/o Bakshish Singh resident of Saidpur and we used to talk on phone. On 26.09.2021 at about 10 P.M. in the night that Jaswinder Singh gave me sleeping pills and I put them in dal and fed it to my parents and went to the house of Jaswinder Singh.

There was no one else in his house. On the pretext of talking, he took me in the bedroom where he forcibly raped me despite of my refusal. I raised a lot hue and cry but because there was no one there, no one heard my voice and I returned to my house at night. I was scared and did not tell anything about this to my family. Now when my family came to know about this from outside then I told them everything and today alongwith my mother namely Parveen Kaur W/o Gurpreet Singh R/o Saidpur came to record my statement before you. Statement has been written, heard and is correct. Action be taken. Sd/- Mehakpreet Kaur abovesaid, Witness statement Sd/- Parveen Kaur W/p Gurpreet Kaur (mother), Attestyed Sd/- Geeta SI, PS Sadar Patti, dated 15.10.2021.”

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 16.10.2021 whereinafter investigation was carried out & challan has been presented. Learned counsel, while referring to the FIR in question, has submitted that it was the victim herself who gave sleeping pills to her own family in *Dal* (food) whereinafter she went to the house of the petitioner (herein). Learned counsel has further argued that there was friendly relationship between the petitioner and the victim which was not to the liking of the family members of the victim which has resulted in registration of the FIR in question. Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of regular bail.

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

6. The accused was arrested on 16.10.2021 whereinafter challan was presented on 06.12.2021 after completion of investigation. Total 16 prosecution witnesses have been cited & culmination of trial will take its own time. The rival contention of the learned counsel for the parties regarding the FIR in question being registered on account of the family of the victim not liking the friendly relationship between the petitioner and the victim will 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 case of either parties. No perceptible material 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 the custody certificate dated 02.02.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 2 years & 3 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.

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/Illaq 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 05, 2024
poonam

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No