

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-20263-2024 (O&M)

Date of order: 30.04.2024

Rajesh Kumar @ Lovely

.....Petitioner(s)

Vs.

State of Punjab

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Raj Kumar Arya, Advocate
for the petitioner.

Ms. Aakanksha Gupta, AAG Punjab.

Nidhi Gupta, J.

Present is the first petition filed by the petitioner under Section 439 of Code of Criminal Procedure (hereinafter referred to as “Cr.P.C.”) seeking grant of regular bail to the petitioner in case FIR No.290 dated 20.10.2023 registered under Section 376 of Indian Penal Code, 1860 (hereinafter referred to as “IPC”) (Section 201 IPC added later on) at Police Station Civil Lines, Batala, District Batala.

2. FIR in the present case was registered on the basis of statement of the victim herself, relevant part of which is reproduced hereinbelow:-

“...Petitioner Gurjinder Kaur has leveled the allegation in the above said petition against the respondent that her husband Kamaljit Singh is working as a Peon in B.P.E.O, Kahnuwan. She came in contact with her neighbor Rajesh Kumar @ Lovely S/o Raju R/o Katyal Colony, Batala through her sister-in-law Priyanka about 3/4 years back. When her husband went on

duty then Rajesh Kumar used to come to her house and seduce her and even raped her and took some objectionable photographs of her. Rajesh Kumar's brother Balwant Kumar @ Bablu and Dilpreet Kaur who was the friends of Balwant Kumar's wife Priyanka blackmailed her by showing objectionable photographs taken by him and blackmailed her and taken 12-13 tolas gold and Rajesh Kumar, Balwant Kumar on the other side had taken Rs.07 lakhs in cash and Threatened to kill her and her children, due to which she could not tell anything to her husband. After that again above said accused persons demanded another 05 lakh rupees from her and when she can't tolerate then she finally told her husband about all this....”

3. It is inter alia submitted by learned counsel for the petitioner that the victim/complainant in the present case is a 45-year-old lady having three children; whereas the petitioner is 33 years old. The petitioner is a neighbour of the victim. Learned counsel refers to the FIR to submit that it has been admitted by the complainant herself that she and the petitioner were in a consensual relationship for the past 3-4 years. It is submitted that the allegations made in the FIR are on the face of it false and fabricated as it was a consensual relationship between the complainant and the petitioner.

4. Learned State Counsel files custody certificate dated 29.04.2024, which is taken on record. As per the custody certificate, the petitioner has been in custody for 4 months as under trial.

5. Learned State Counsel on instructions from ASI Palwinder Singh informs this Court that as per the FIR itself, the first incident happened about 3-and-a-half year ago. MLR in the present case

was conducted on 23.10.2023, as per which, sexual intercourse could not be ruled out. FSL report in the case is awaited and charges have been framed on 09.04.2024. It is further informed that the victim in her statement under Section 164 Cr.P.C. has supported the prosecution case. It is also submitted that out of 22 prosecution witnesses, none has been examined so far.

6. I have heard learned counsel for the parties.
7. Without commenting on the merits of the matter, however, keeping in view the totality of the facts and circumstances of the present case, including the fact that as per the custody certificate, there is no other case against the petitioner; the fact that out of 22 prosecution witnesses, none has been examined so far; conclusion of trial will take time; and no useful purpose would be served by keeping the petitioner behind bars; present petition is **allowed**. Petitioner namely Rajesh Kumar @ Lovely s/o Raj Kumar @ Raju, is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.
8. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.
9. Pending application(s) if any also stand(s) disposed of.

30.04.2024
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No