

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21312-2023 (O&M)

DATE OF DECISION : 23.04.2024

AMARJOT SINGH

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Luvinder Sofat, Mr. Vishal Mehta with
Mr. Mehardeep Singh, Advocates for the petitioner.

Ms. Himani Arora, A.A.G., Punjab.

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HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in case bearing FIR No. 97 dated 31.12.2022 under Sections 363, 366, 120-B IPC and Section 376(2)(n) IPC and Section 6 of Protection of Children from Sexual Offences Act (added subsequently) registered at Police Station Sadar Budhlada, District Mansa.

2. On 12.09.2023 following order was passed:-

“1. Custody certificate of the petitioner has been placed on record.

2. Learned counsel for the petitioner contends that in the report under Section 173 Cr.P.C, it has been specifically and categorically mentioned that the petitioner was found to be innocent during the course of investigation and his name was reflected in column No.2 of the report under Section 173 Cr.P.C.. However, charge has also been framed against the petitioner with regard to commission of offence under Sections 363 read with Section 34 and 366-A read with Section 34 IPC. It has been further submitted that no application was moved by the Prosecuting Agency for discharge of the petitioner from custody on the score that he was found innocent.

3. On the previous date of hearing, learned state counsel had sought time to file better reply/status report and clarify the circumstances.

4. Learned State counsel has placed on record custody certificate and seeks time to file better reply/status report.

5. On her request, adjourned to 12.12.2023.

6. However, it is directed that in the meanwhile, the petitioner be admitted on interim bail on furnishing bail bonds to the satisfaction of the Arresting Officer subject to the condition that he joins the investigation and

comply with other conditions as specified under Section 438(2) Cr.P.C. ”

3. Heard.

4. As per the status report dated 27.08.2023, the statement of the prosecutrix under Section 164 Cr.P.C. was recorded on 05.01.2023. In the said statement, it has been specifically mentioned that petitioner-Amarjot Singh @ Babbu has not committed rape with her. In fact, petitioner-Amarjot Singh @ Babbu was accompanying the prosecutrix to drop her at the house of her parents. Subsequently on 03.02.2023, application regarding innocence of the petitioner was moved by the mother of the petitioner which was enquired into by DSP, Budhlada and this fact has been confirmed that the petitioner was found innocent during the said enquiry and DDR No. 28 dated 11.02.2023 was entered in the police station and after completion of the investigation, when the challan was presented the name of the petitioner-Amarjot Singh @ Babbu was kept in column no.2 of the challan.

5. It has been further mentioned that medical sample of the victim including DNA samples were obtained. As per the status report filed by way of affidavit of Manjeet Singh, Deputy Superintendent of Police, Sub Division Budhlada, District Mansa, today in the Court which is also having copy of the DNA test report, it is found that though the DNA profile of the co-accused of petitioner namely Jugraj Singh matched with the DNA profile of the victim, however, it has been mentioned that Amarjot Singh @ Babbu (present petitioner) is excluded as a contributor to the human semen and male DNA present in the vaginal swabs of the victim.

6. It has been further submitted by the learned State counsel, while referring to the status report that out of total 17, 11 witnesses have

already been examined during the trial.

7. In view of the aforesaid circumstances, the present petition is allowed and the order of interim bail dated 12.09.2023 is made absolute. The bail bonds already furnished by the petitioner would be treated as the bail bonds as per this order.

23.04.2024

Janki

**(HARPREET KAUR JEEWAN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No