

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.21694 of 2023 (O&M)
Date of Decision: 19.03.2024

Baldev Singh alias Narain Dass ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Prashant Bansal, Advocate and
Mr. Nitish Garg, Advocate,
for the petitioner.

Mr. Satjot Singh, AAG, Punjab.

MANISHA BATRA, J.(Oral)

CRM-44498-2023

This is an application under Section 482 of Cr.P.C. for adding offences punishable under Sections 344 and 109 of IPC in the heading and prayer clause of the present petition.

Heard. For the reasons mentioned in the application, the same is allowed.

The Registry is directed to add the aforementioned sections in the heading as well as prayer clause of the present petition.

Main Case

1. The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Police Station	Sections
431	Patran, District Patiala	328, 323, 342, 376-D and 506 of IPC (Section 120-B of IPC added later on)

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2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of statement recorded by the prosecutrix “P” (name withheld) on 22.12.2021 alleging therein that on 13.10.2021, she had performed court marriage with accused Gurpreet Singh. Thereafter, they had started living at Village Gulahar at her in-laws house. She alleged that her husband used to give food mixed with some drugs due to which she used to lose her consciousness. She was kept locked in a room at her matrimonial house by her husband. She was also kept in a state of intoxication and in that very state, her brother-in-law (devar Gagandeep Singh), the present petitioner who is brother-in-law of her husband (i.e. her nandoi) and her husband used to ravish her and she was threatened to not to disclose about these facts to anyone. She alleged that on 20.12.2021 when she was little conscious, by using the phone of her husband, she had managed to call her paternal aunt (bua) “R” (name withheld). Her husband had come to know about this fact and had given severe beatings to her and also extended threats. On the same day, while feeling afraid of any action being taken against his family and himself, the accused Gurpreet Singh had left her at a police station from where she had gone with her parents to her parental house. She also recorded in her statement that due to addiction of drugs, thereafter, her condition had worsened and she remained admitted in the hospital. After registration of FIR, investigation proceedings were initiated. The prosecutrix recorded her supplementary statement on 27.12.2021, wherein she also nominated her mother-in-law and sister-in-law as co-accused. She had also nominated her cousin brother Raju as one of the accused. The petitioner was arrested on

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20.01.2022. Presently, he along with the co-accused is facing trial for commission of aforementioned offences. He had also been chargesheeted under Sections 344 and 109 of IPC by the trial Court. He had moved two applications for bail before the Court of learned Additional Sessions Judge/trial Court but the same were dismissed.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. He is in custody since 20.01.2022. Infact, the prosecutrix while leaving her home at her own will had performed marriage with the co-accused Gurpreet Singh against the wishes of her parents. After performing marriage, they had filed a petition for seeking protection of their life and liberty against the parents and other family members of the prosecutrix. The said protection petition had been disposed of after recording statements of the family members of the prosecutrix and then the prosecutrix and co-accused Gurpreet Singh had withdrawn the said protection petition by making a joint statement as on 23.12.2021 in the Court. It is further argued that the prosecutrix had happily remained with her husband at her matrimonial house, and had desired to go back to her parental house on 21.12.2021. A written compromise was arrived at between the prosecutrix and her husband along with family members of the prosecutrix at Police Station Shutrana as on 21.12.2021 and she had gone with her own family members. A DDR was also entered at the concerned Police Station. However, on the next very day, the present FIR was lodged wherein he along with the other family members of accused Gurpreet Singh had been nominated and false allegations had been levelled against them. The

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petitioner is a Mahant. His entire family is dependent upon him. He is in custody since long.

4. It is further argued that the prosecutrix has recorded her statements under Section 164 and also before the Court and there are material improvements in her statements which point out that her version is not correct and that has made her version unreliable and not worthy of credit. The allegations made by the prosecutrix that she was kept under the influence of some drugs have also been proved to be false on the basis of the report given by the doctors as Annexure P-20 as per which, the dope test report conducted on the person of the prosecutrix on 23.12.2021 was found to be negative. The FIR in this case has been lodged by the prosecutrix as she is under immense pressure of her family members who were against alliance of co-accused Gurpreet Singh with their daughter. The medical as well as forensic evidence does not indicate that the petitioner had committed rape upon the prosecutrix. The trial is likely to take time. There are no chances of his intimidating the prosecutrix as she already stands examined. No useful purpose would be served by keeping him in custody any more. Therefore, it is argued that the petition deserves to be allowed and he deserves to be released on bail.

5. Status report has been filed by the respondent No.1-State as per which, the presence of semen/spermatozoa could not be confirmed on the vaginal swabs/smear slides and public hair of the prosecutrix and no male DNA profile could be recovered from them. It is also submitted that there are serious and specific allegations against the petitioner and it is, therefore, argued by learned State counsel that the petitioner does not deserve to be

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given concession of bail.

6. I have heard learned counsel for the petitioner and learned State counsel at considerable length and have gone through the record.

7. It is not in dispute that the prosecutrix had performed marriage with the co-accused Gurpreet Singh on 13.10.2021 and had lived in her matrimonial house till 21.12.2021 and on that day, she was taken by the co-accused Gurpreet Singh to Police Station Shutrana wherein the members of the family of the prosecutrix had also appeared and she had given a statement expressing desire to accompany her parents and her custody was handed over to them. The FIR of this case was lodged just next day thereafter wherein the prosecutrix had levelled allegations of her being kept confined in her matrimonial house by the co-accused Gurpreet Singh and qua her being ravished by the present petitioner and the co-accused Gagandeep Singh who are brother-in-law and brother respectively of co-accused Gurpreet Singh. The statement of the prosecutrix has since been recorded. Learned counsel for the petitioner has argued that her statement is not worthy of credit as she has made several improvements in her statement and that there are material inconsistencies in the same. It has also been argued that the main allegations as levelled by the prosecutrix that she was kept in a state of intoxication by her husband during the period when she had stayed with him, have been found to be false as admittedly dope test had found to be negative. No doubt, it is revealed from the documents placed on record that as per the report of the doctor, the dope test which was conducted on the victim on 23.12.2021 has come negative meaning thereby that no drug was found in her body. However, the statement of the prosecutrix

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cannot be discarded at this stage due to that reason alone. In her sworn deposition, she is shown to have categorically stated that she was being ravished by the petitioner and was kept confined in her matrimonial house. The allegations against the petitioner are serious in nature. The trial is going at its proper pace and it cannot be stated that there are any chances of undue delay in conclusion of the same. At this stage, when this Court is considering the plea of the petitioner for grant of regular bail, it is neither feasible nor appropriate to draw any conclusion or to return any finding as to whether the victim was ravished/subjected to acts of aggravated penetrative sexual assault at the hands of the petitioner or not? The finding or decision on this point has to be given by the trial Court on a thorough assessment and evaluation of the evidence led by the parties during the course of trial. The period of incarceration of the petitioner cannot be said to be a ground for extending benefit of bail to him. Keeping in view the gravity of the offences alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, I am of the opinion that the petition does not deserve to be allowed. Hence the same is dismissed.

8. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

19.03.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No