



219 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-23603-2024
Date of decision: 3rd July, 2024

Manpreet Singh Brar

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. S.P.S. Sidhu, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

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

FIR No.	Date	Police Station	Sections
121	27.06.2024	Sadar, Faridkot, District Faridkot	377 and 34 of IPC, 1860 and Sections 6 and 17 of POCSO Act, 2012

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of statement recorded by the complainant ‘M’ (name withheld), who is a minor boy aged about 13 ½ years alleging therein that his father had been doing labour work with one Jagtar Singh and he used to help his father in his work. On 21.06.2021 at about 4:00 PM, when he was standing outside his house, one white coloured car of Ertiga make with Chandigarh registration number, stopped near him. The petitioner was sitting on the driver seat of the said car



whereas co-accused Major Singh @ Ghona Singh and Kulwant Singh @ Kanti were sitting with him. The petitioner asked the complainant to wash his car and to give a sum of Rs. 50/- for that work. The complainant after informing his father, accompanied the petitioner and others, who took him in that car to the side path of Canal of his village, wherein he was forcibly made to remove his shorts (knickers) and lower and by closing the window panes and doors of the car, all three of them turn by turn committed act of carnal intercourse against the order of nature with him. In the meantime, father of the petitioner reached there. The complainant informed him about the act committed by petitioner and co-accused but he was extended threats by them. The petitioner once again committed the same act with him by taking his car in the shelter/shed of his father and then while extending threats to him, made him to go back to his house. The complainant then disclosed about the entire incident to his father and was got admitted in the hospital. After registration of FIR, investigation proceedings were initiated. The victim was medically examined. The petitioner and co-accused were arrested. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of offences punishable under Section 377 read with Section 34 of IPC and Section 6 read with Section 17 of POCSO Act. He had moved an application for regular bail before the learned Special Judge, Faridkot which was dismissed vide order dated 30.04.2024.

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. At the time of his admission in the hospital, the victim had given history of being sexually assaulted by two persons and about his rescue by some truck drivers on 24.06.2021. The medico legal examination report did not show that any external perennial injury was visible on the anal part of the victim. The father of the victim had sworn an affidavit submitting therein that it was due to some misunderstanding that the name of the petitioner had been taken and that they did not want any action against him.

4. Learned counsel for the petitioner has further argued that after conducting due investigation, the investigating agency had even prepared cancellation report (Annexure P-8) in this matter but the same had not been accepted and the learned trial Court had treated the said report as protest petition and tried the same as complaint. In their deposition recorded before the Court, neither the victim nor his father implicated the petitioner in commission of the subject offences. Infact, the petitioner had posted one video against the village Sarpanch and her husband and on their behest, he had been falsely implicated in this case by the father of the victim and the victim. The trial is likely to take time. His further detention would not serve any useful purpose. Therefore, it is argued that the petitioner deserves to be extended benefit of bail.

4. *Per contra*, it has been argued by learned State counsel that there are serious allegations against the petitioner and therefore, he does not deserve to be given concession of bail.

5. I have heard learned counsel for the petitioner as well as learned



State counsel at considerable length and have gone through the record carefully.

6. The petitioner along with the co-accused Major Singh @ Ghona Singh and Kulwant Singh @ Kanti is alleged to have committed act of carnal intercourse against the order of nature with the complainant on 21.06.2021. The petitioner has placed on record, copies of statements of the complainant and his father and a perusal of the same reveals that though the complainant supported the version of the prosecution with regard to his being subjected to act of carnal intercourse against the order of nature by co-accused Major Singh @ Ghona Singh and Kulwant Singh @ Kanti but did not implicate the petitioner in the subject crime and did not even identify him in the Court. He is shown to have been declared hostile and was allowed to be cross-examined by learned public prosecutor but is shown to have maintained same stand. Similarly, his father is shown to have stated that only accused Major Singh @ Ghona Singh and Kulwant Singh @ Kanti committed the act of carnal intercourse with him and exonerated the petitioner. The petitioner is in custody since 11.02.2023. The material witnesses have not implicated him in the subject crime. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. Keeping in view the period of his incarceration, the nature of evidence that has come on record and the attendant facts and circumstances of the case, but without meaning to make any comment on the merits thereof, I am of the considered opinion that the petition deserves to be allowed. Hence, the same is allowed, the petitioner is ordered to be released



on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. Since the main petition has been allowed pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

3rd July, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |