



213 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-24036-2024
Date of decision: 20th May, 2024

Sourafdeep Singh @ Souraf and another
...Petitioner(s)
Versus
State of Punjab
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Umesh Aggarwal, Advocate for the petitioners.
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 FIR mentioned below:-

FIR No.	Date	Police Station	Sections
105	12.04.2023	B. Division, District Amritsar	376-D, 323 and 365 of Indian Penal Code, 1860 (for short 'IPC')

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of a statement recorded by the prosecutrix 'A' (name withheld) alleging therein that on 10.04.2023 at about 10: 00 PM, she alongwith her husband had gone to offer obeisance at Darbar Sahib, Amritsar on his e-rickshaw. Her husband had dropped her outside the Gurudwara and went for his work. She came out of the Gurudwara at about 12:30 AM and after waiting for her husband, she had started walking towards her house, when on the way, she



noticed one unknown youth coming behind her. He asked her about directions of some place and also told her to explain about the same to his driver. When the prosecutrix proceeded towards the vehicle, she was pushed inside the same by the said youth and the driver sitting therein. She found two unknown persons sitting on the rear seat. She raised alarm but that did not serve any purpose. All those four persons took her to some unknown place, wherein she was ravished by them turn by turn. She came to know about the number of the vehicle as 9618, during the course of conversation which was made by those youths and also noted down that it was of Safari make. Thereafter, she was dropped by those persons at some place. She somehow managed to reach home and narrated the entire incident to her husband. After registration of FIR, investigation proceedings were initiated. Statement of the prosecutrix was recorded on 03.07.2023 under Section 164 of Cr.P.C. wherein she stated that no wrong had been done with her and she had got registered this case due to mistake. However, the investigation proceeded further. The petitioners were arrested 15.10.2023. The remaining petitioners were also arrested. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioners along with co-accused are facing trial for the commission of the aforementioned offences. Petitioners had filed an application for grant of regular bail before the learned trial Court which was dismissed on 04.05.2024.

3. The present petition has been filed by the petitioners on the grounds and it has been argued by their counsel that they have been falsely



implicated in this case. Neither in her statement recorded under Section 164 of Cr.P.C. nor in her sworn deposition, the prosecutrix had implicated the petitioners in commission of the subject crime. Trial is likely to take time. Therefore, it is argued that no useful purpose would be served by keeping the petitioners in custody anymore. The co-accused Navpreet Singh @ Nav whose case is on similar footing has since been extended benefit of bail. On the ground of parity, they too deserve to be extended the same benefit. With these broad submissions, it is argued that the petition deserves to be allowed.

4. Learned State counsel on the other hand has argued that keeping in view the gravity of the allegations, the petitioners do not deserve to be released on bail.

5. I have heard learned counsel for the petitioners as well as learned State counsel at considerable length and have gone through the record carefully.

6. The petitioners along with the co-accused are alleged to have abducted the prosecutrix on the intervening night of 10/11.04.2023 and is further alleged to have committed gang rape upon her. However, on a perusal of Annexure P-3, which is copy of statement of the prosecutrix as recorded under Section 164 of Cr.P.C. on 03.07.2023, it is revealed that she had totally denied the version as given by her earlier and stated that nothing wrong had been done with her. Annexure P-4 is copy of her statement as recorded before learned trial Court, which though corroborates the version as given in the FIR with regard to her being abducted and gang raped by four persons, but she stated that none of them was identifiable to her. She refused



that the petitioners and co-accused, present in the Court were the same persons who committed rape upon her. In this manner, her sworn deposition has also not served any purpose for the prosecution to connect the present petitioners with subject crime. Keeping in view the nature of the evidence which has come on record in the form of testimony of the prosecutrix, who was the star witness of the case and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition deserves to be allowed. Accordingly, the same is allowed, the petitioners are ordered to be released on bail subject to their furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

20th May, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes
2. Whether reportable

:

Yes