



230 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-24528-2024
Date of decision: 21st May, 2024

Harmandeep Singh @ Gauri
...Petitioner(s)
Versus
State of Punjab
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. B.S. Jaswal, 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 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 petitioner was arrested 15.10.2023. The remaining accused were also arrested. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner along with co-accused is facing trial for the commission of the aforementioned offences. Petitioner 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 petitioner on the grounds and it has been argued by his counsel that he has 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 petitioner 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 petitioner in custody anymore. Co-accused whose case is on similar footing have since been extended benefit of bail. On the ground of parity, he too deserves 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 petitioner does not deserve to be released on 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 is 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 petitioner 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 petitioner with subject crime. On the ground of parity and further 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 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. 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

21st May, 2024
Parveen Sharma

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