

2024:PHHC:036968

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-25522-2023 (O&M)

Date of decision: 14.03.2024

Jeon Singh alias Jon Pail

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Divya Gulati, Advocate,
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.173 dated 24.12.2021, registered for the offences punishable under Sections 376, 342, 323 of IPC at Police Station Khuian Sarwar, District Fazilka.
2. The case set up in the FIR in question is as follows:-

“Statement of Rupa Rani daughter of Sohan Singh resident of Ghanga Kalan, PS Sadar Jalalabad, Distt. Fazilka aged about 22 years, mobile No.77176-81279. Stated that I am a resident of above mentioned address and we are four brothers and sister, out whom three are brothers and I am youngest of all and I am totally illiterate and is doing household work. Around two years back, I alongwith my family members had gone to village Patti Sadiq to pluck cotton crop and were living in the house of Ved and that near the water works, one Harjinder Singh son of Pamma Singh, resident of Patti Sadiq used to take care of stray animals and his friend Jeon Singh son of Maana Ram, resident of Majitha who was indulged in sale and purchase of

cattle (cows), used to visit Harjinder Singh. In September, 2020, during night, I had gone out of house to urinate, then one car black in colour in which Gurbachan Singh son of Mashu Singh, Paro Bai wife of Gurbachan Singh, Manjit Kaur daughter of Gurbachan Singh, residents of village Fattu Wala accompanied by Harjinder Singh son of Pamma Singh, resident of Patti Sadiq, Jeon Singh son of Maana Ram, resident of Majitha, came there and took me in the vehicle and moved towards Abohar and on the way, Harjinder Singh alighted from the car at Patti Sadiq and that Gurbachan Singh, Paro Bai and Manjit Kaur also alighted therefrom on the way and thereafter Jeon Singh took me to his house at Majitha where he kept me under lock for about one year and two months and had been beating me and used to make physical contacts with me without my consent. Now for the last 2/3 days, none was there present in the house of Jeon Singh, SO from Majitha by bus, I came to Amritsar and from Amritsar to Abohar and made a phone call to my father who came and took me to the house. We have a suspicion that Gurbachan Singh, Paro Bai and Manjit Kaur have false registered got case against my brother Sukhjinder Singh and at present my brother is in jail and that Jeon Singh and Harjinder Singh have connived together and done something like this. Kindly take legal action. Today I alongwith my father Sohan Singh and mother Rani Bai through our counsel appeared before the Hon'ble Judge Sahib and then I was admitted in Civil Hospital. My statement has been given, read over, it is correct. Sd/- in Punjabi, Rupa Rani complainant."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 10.06.2022. Learned counsel for the petitioner has further argued that a perusal of the FIR would reflect that the allegation made against the petitioner is that he had forcibly kept the victim under lock for more than one year which is inherently unbelievable & an affidavit dated 15.06.2022 was also sworn in by the victim (copy whereof

has been appended as Annexure P-2) which specifically averred that the FIR in question registered against the petitioner was false in nature and the victim did not want to take any action against the petitioner in the said FIR. Learned counsel for the petitioner has further argued that the victim has not repeatedly turning up for her testimony being recorded as a prosecution witness. Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of regular bail.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 10.06.2022 whereinafter investigation was carried out & challan was presented on 03.08.2022. Total 18 prosecution witnesses have been cited out of which mother of the victim, father of the victim as also the Investigating Officer of the case already stand recorded. Further, victim has been partly examined but is not repeatedly coming forward to have her complete testimony recorded. The rival contentions of the parties regarding, the case in hand being one arising out of a consensual relationship & the veracity and relevance of the affidavit dated 15.06.2022 stated to have been furnished by the victim, shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the case of the either parties. Nothing perceptible has been brought forward to indicate the likelihood of the petitioner absconding

from the process of justice or interfering with the remaining prosecution evidence. As per the custody certificate dated 12.03.2024 filed by the learned State counsel, petitioner has suffered incarceration for more than 01 year and 09 months & is not shown to be involved in any other case. Suffice to say, in the facts and circumstances of the present case, further detention of the petitioner as an undertrial is not warranted.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.
9. Ordered accordingly.
10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

March 14, 2024
poonam

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