



226 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-26919-2024
Date of decision: 31st May, 2024

Lakhbir Singh @ Sikander
...Petitioner(s)
Versus
State of Punjab
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Parveen Chauhan, 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
159	07.11.2023	City Patti, District Tarn Taran	376 of IPC, 1860 and Section 4 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 ‘A’ (name withheld) alleging therein that the victim ‘P’ (name withheld), who was her minor daughter, had gone to attend school on 06.11.2023 and after reaching back at her house at 12:30 PM. She disclosed that the petitioner had forcibly taken her on his motorcycle to a hotel at Tarn Taran and after committing rape upon her, he



had left her at bus stand Village Patti and thereafter, ran away. The complainant alleged that the petitioner was having an evil eye upon her daughter from some time and used to stalk her and they had tried to stop him from doing so on several occasions previously. After registration of FIR, investigation proceedings were initiated. The victim was medically examined. Her statement under Section 164 of Cr.P.C. was recorded, wherein she reiterated the allegations levelled in the FIR. The petitioner was arrested during the course of investigation. On completion of usual formalities, challan was presented against the petitioner and presently, he is facing trial for commission of aforementioned offences. The petitioner had moved an application for regular bail before the learned trial Court which was dismissed vide order dated 20.03.2024.

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. There are friendly relations between the petitioner and the prosecutrix and both of them have youthful inclination toward each other. The victim had been writing letters to her showing her love and affection towards the petitioner and on coming to know about this fact his family members had falsely implicated him in this case. The victim and her mother have since been examined before the trial Court and as such there are no chances of his intimidating them. He is in custody since 07.11.2023. His further detention would not serve any useful purpose. Therefore, it is argued that the petition deserves to be allowed.



4. *Per contra*, learned State counsel has argued that as there are serious allegations against the petitioner, hence the petition does not deserve to be allowed.

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 is alleged to have committed offence of rape/penetrative sexual assault upon the prosecutrix on 06.11.2023. However, while stepping into the witness box, neither the prosecutrix nor her mother i.e. the complainant are shown to have implicated him in the commission of the aforementioned offence. Rather both of them stated that they did not even know the accused-petitioner and had seen him for the first time in the Court. The prosecutrix stated that no offence had been committed by the petitioner with her at any point of time. Both these witnesses are shown to have been declared hostile and on request of learned public prosecutor, they have been cross-examined by him but nothing incriminating has been proved to be extracted from their statements. Keeping in view the nature of the evidence which has come on record in the form of statements of the material witnesses i.e. prosecutrix and her mother, the period of incarceration of the petitioner and the above discussed facts and circumstances of the case, I am of the considered opinion that no useful purpose would be served by detaining the petitioner in custody anymore.

Therefore, the petition is allowed and 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

31st May, 2024
Parveen Sharma

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