



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

203

CRM-M-25802-2024

Date of Decision: 27.05.2024

Gurmej Singh

.... Petitioner

Versus

The State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Vipul Aggarwal, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

Mr. Vishnu Dutt, Advocate for the complainant.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 79 dated 15.09.2021 (Annexure P-1) registered under Sections 376-D and 506 IPC at Police Station Bhindi Saidan, District Amritsar (Rural).

The aforesaid FIR was registered on the basis of statement of complainant/victim herself, which is reproduced as under:-

“State of xxxx d/o xxxxx, resident of Awan Wasau, aged about 17 years, Mobile No. 87250-22836 stated that I am resident of above address and doing household work. I have four brothers and we are three sisters. I am the youngest and my father is doing labour work. On dated 10.09.2021 at about 07:00 AM, I was walking on the road of my village and Goldy s/o Jagbir Singh and Gurmish Singh s/o Jagtar Singh residents of Awan Wasau came to me and forcibly pulled me towards cremation ground, forcibly pulled out my cloths, thrown me on the ground and took turns to rape me forcibly without my consent. Then my condition deteriorated and both of them were in drunken condition and on my



crying, they ran away from the spot. With great difficulty I could reach home and disclosed everything about the incident to my mother xxxx. Due to shame we did not talk about this to anybody but our conscious did not allow me to remain silent and I came here with my mother for action and you met us. While going the above accused also threatened me that in case I tell about this incident to anybody then they will do more heinous offence with me. I have recorded my statement, heard and understood. Action may please be take.....”

Learned counsel for the petitioner, *inter alia*, submits that the allegations made against the petitioner in the present FIR are false and fabricated. It is submitted that both the parties i.e. the present petitioner and the complainant are residents of the same village and the present FIR was registered by complainant/respondent No. 2 herein, on the basis of some misapprehension. Subsequently, respondent No. 2-complainant has tendered her affidavit dated 05.06.2023 (Annexure P-6), wherein she has admitted that with regard to the present matter a compromise has been entered into between the parties. Further, it is submitted that even a perusal of MLR dated 14.09.2021 (Annexure P-2) shows that there are no injuries found on the person of the complainant. Learned counsel also refers to FSL Report dated 14.10.2022 (Annexure P-3), which has been found to be negative as human semen and male DNA was not detected on the exhibits provided by the prosecutrix. Learned counsel submits that similarly placed co-accused of the petitioner, namely, Pargat Singh @ Goldy, has already been granted the concession of regular bail vide order dated 07.05.2024 (Annexure P-10), passed by this Court in CRM-M-21457-2024. The petitioner has been in custody since 06.08.2023. The trial is likely to take a long time to conclude. Thus, it is prayed that



petitioner be also released on regular bail.

Per Contra, learned counsel for the State has filed custody certificate dated 24.05.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 09 months and 17 days. Learned counsel for the State has not disputed the aforesaid submissions made by learned counsel for the petitioner.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case; including the custody period of 09 months and 17 days undergone by the petitioner as an undertrial; and the fact that similarly placed co-accused of the petitioner has already been enlarged on bail; and also the fact the conclusion of trial will take considerable time; and no useful purpose would be served by further detention of the petitioner in custody. Thus, the present petition is **allowed**.

The petitioner-Gurmej Singh S/o Jagtar Singh, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

27.05.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No