

CRM-M-28248-2024

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2024:PHHC:081205



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

210

CRM-M-28248-2024

Date of Decision: 01.07.2024

Santokh Singh @ Sukwinder Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Ms. Sukhpreet Kaur, Advocate for the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

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. 104 dated 22.08.2023 registered under Sections 376(2)(1) and 376(2)(n) IPC at Police Station Sri Anandpur Sahib, District Rupnagar.

The aforesaid FIR was registered on the basis of complaint moved by the Centre Administrator, Sakhi One Stop Centre Rupnagar, which is reproduced as under:-

“..... 1. The Deputy Commissioner, Rupnagar, Senior Superintendent of Police, Rupnagar letter No. OSC/RPR/2023/380-81 dated 16/08/2023. Subject: Regarding taking action against Sukhwinder Singh @Santokh Singh resident of Balachaur now resident of Fatehgarh Mohalla Anandpur Sahib (Does the work of selling books in Gurdwara Kesgarh Sahib), regarding



physical abuse, lowering down her image in the society and causing mental harassment to lady Reena daughter of Parmanand resident of Delhi now resident of Fatehgarh Mohalla, Anandpur Sahib, for the last around 3 years while getting the benefit of her helplessness of being alone. It is requested regarding above mentioned subject matter that lady Reena daughter of Parmanand resident of Delhi now resident of Fatehgarh Mohalla, Anadpur Sahib, reached at Sakhi One Stop Centre on 12/08/2023 at about 6:30 Pm for help, on being sent by Red Cross Society Rupnagar. That from basic knowledge, the lady time and again requested to hear entire story in detail and simultaneously asked basically for temporary shelter, out of the services provided by Sakhi One Stop Centre and asked for taking any further action only after hearing her entire story. From 12/08/2023, entire story of the Lady is being heard and psycho-social counselling is being done. Nothing has been given by the Lady in writing. Only one form of the One stop Centre has been filled up. But, have verbally/orally narrated the entire story of last 6 years till date and keeping in view the condition of Lady full time is being given to her. It was considered necessary by the undersigned, whatever information is being provided by the Lady, the same is necessary to be brought to your knowledge, so that further action can be taken on it. Whatever information is provided verbally/orally by the Lady; According to that; The Lady had come from her home about 6 years earlier, as her parents and brother wanted to solemnise her marriage forcibly. But she had decided not to perform marriage and she was being suspected by her family members and the family members started getting spying her and started putting pressure to solemnise marriage. During this, an application was given by the Lady the Women Commission Delhi. Regarding which



when her parents were called by the Women Commission Delhi, then they backed out from all this and broke their all relations with the Lady. Having no place for living, firstly took shelter at Gurdwara Bangla Sahib and then on telling by someone came to Amritsar, lived at Sri Harmandir Sahib, but there the Lady was molested by someone and the Lady opposed it. Due to the Lady being alone, no one stood in her favour. But, the molesters being local residents, police supported them and Sewadars raised suspicion on her and her articles were searched. In which, one old phone purchased by her and one paper cutting, which was regarding spying of some political leader; on the basis of which the Lady was declared as Spy/Detective and her Aadhar Card was also taken and her parents were contacted and they said that she had run away from the home and we do not know what she is doing. While all this was going, the Lady came to Anandpur Sahib in year 2020 near the Holla - Mohalla and started living at Gurdwara Kesgarh Sahib and started doing Sewa there and then Covid Pandemic break down and curfew was imposed and one Shelter was built at Gurdwara Kesgarh Sahib, where all were kept and Lady had to live there also and there also she was molested and she talked to Manager also, but no hearing was done and she also told the Police man who was posted at the Shelter and as per statement of the Lady she left from that place in search of some safe place, but no place could be found out being Covid and curfew situation and all said to her to go back the same Shelter which was made by the Police in the Gurdwara Sahib and when she reached there, the Police man said that, Lady, we had stopped you from leaving, then why you left and then he gave phone call to his Incharge and one police vehicle came there and in which some Lady constables were there and Male constables also and they



gave beatings to the Lady without hearing her story and all made an opinion that Police has given beatings to her and in future no one supports her while getting the benefit of her helplessness and she was also given beatings by some other boy, but nobody supported her. But, when she tried and talked to some Lady during Langar, the abovesaid Sukhwinder Singh @ Santokh Singh was also there. Who was having some sympathy for her and Sukhwinder Singh started helping for getting room on rent to the Lady. But, news of earlier story of Amritsar and giving beatings at Anandpur Sahib by the Police, spread out, then nobody gets ready to give me room and as the Lady did not know anybody, but only known to Sukhwinder Singh and as per the advice of Sukhwinder Singh, the Lady took room adjoining the room of Sukhwinder Singh and Sukhwinder Singh was working in the Gurdwara and used to visit in the room time to time and kept on looking after properly the Lady till one month. But thereafter Sukhwinder Singh started doing some such activities which she did not like and the Lady prevented him and Sukhwinder Singh tries to win her trust. In this manner, when Sukhwinder Singh started crossing his limits, then the Lady complained of the same and also opposed it, but Sukhwinder Singh tried to kill her by pressing the neck and was extended threat that he will viral his video amongst all and her leaving home, not living with her parents, all go against her and apprehension of being a spy in Amritsar, all will go against the Lady. The lady was having no place and nobody was there to support there the lady at Anandpur Sahib and as told by the Lady she was also ill and weak. Therefore, living in that room was her compulsion and this Lady lived with Sukhwinder Singh at many places in Anandpur sahib and the Lady told that on being resisted by her the physical exploitation done by Sukhwinder Singh used

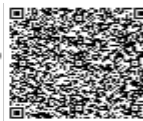


to say that "I will perform marriage with you. The lady told that she had decided not to perform marriage. But in the prevailing circumstances she also compromised with the situation. But Sukhwinder Singh did not perform marriage. Rather lowered her image by changing rooms at different places and when the Lady said regarding the Police complaint then used to say that you go wherever you want, file complaint, all will consider me truthful. From which the Lady felt that somewhere Police will also support him. This kept on going for 2-2-1/2 years and in which she was also given beatings by Sukhwinder Singh to satisfy his lust and simultaneously done her physical exploitation and in case the Lady tried to tell someone, then Sukhwinder Singh used to made her bad image in front of all for her past life and gradually the talks of the Lady, whatever she tries to do, her personal talks used to convey her landlord and known persons. Which became the reason for more mental harassment for her and day by day this mental harassment kept on increasing that the Lady was harassed physically also, but she was unable to do anything and people around her consider her an accused. That it was becoming difficult for the Lady to breathe. The Lady also get advice from the Lawyers from Anandpur Sahib court. Wherever it is she was made accused by Sukhwinder Singh that he is bearing her expenses. Whereas, it is nowhere correct to play with her modesty. While it was going on, as told by the Lady, she left Anandpur sahib on 7/8 August and while taking advice of lawyers from Court, when no conclusion of any kind could be arrived, she was told by someone regarding the District Red Cross Society, that they can help her and reached at Red Cross office and the undersigned received call from the Secretary Red Cross Society. But, the Lady only said this in Red Cross society that she is having some personal problem



and from 12/08/2023 from the evening, the lady is staying in temporary Shelter of Sakhi One Stop Centre Rupnagar and the Lady can be kept in One Stop Centre only for maximum 5 days and therefore keeping in view the condition of the Lady, necessary action regarding the exploitation of the Lady may be taken at the earliest Thereafter, arrangement can be made for further stay of the Lady. Simultaneously, it is also brought to your notice, as per the facts narrated by the Lady, she does not want to go to any Nari Niketan and nor she is having any relative, valll-varis/caretaker, to whom the Lady can be sent. Therefore, for further stay of the Lady, arrangement can be made at Protection Home Jalandhar under the Social Security Women and Children Department Punjab. But the Lady is not ready to go to any such Shelter home. Regarding this direction of undersigned may be followed.....”

Learned counsel for the petitioner, *inter alia*, submits that from a perusal of the above it is clear that the present FIR was registered merely on the basis of an oral narration by the alleged victim to the complainant qua the alleged incidences of rape committed by the petitioner upon the victim. It is submitted that no written complaint was ever made by the victim at any stage. Moreover, the victim who is a 32-years-old lady, is habitual of making similar complaints against many other innocent persons like the present petitioner. As per the prosecution story itself, the victim had left her parental home 06 years prior to the registration of the present FIR, on account of some dispute with her parents and started residing at Gurudwara Bangla Sahib. Thereafter, she had gone to Amristar and stayed at Sri Harmandir Sahib, where she had



levelled similar allegations against the Sewadars of the Gurudwara Sahib. Thereafter, in the year 2020, the victim came to Sri Anandpur Sahib and started living at Gurudwara Kesgarh Sahib, where the petitioner was running a book shop in the Gurudwara Sahib premises. Learned counsel submits that on the basis of oral allegations levelled by the victim the petitioner has been falsely implicated.

Learned counsel further submits that moreover the alleged incidents pertained to the year 2020 to 2023. However, the present FIR came to be registered against the petitioner only on 22.08.2023 and, therefore, there is unexplained delay in lodging the FIR. Furthermore, there is no medical evidence on record. Even further, after registration of the FIR, on the directions of the learned Sub Divisional Judicial Magistrate, Sri Anandpur Sahib, the victim was sent to State Protection Home Jalandhar. Challan (Annexure P-3) in the present case was presented on 26.09.2023; and, thereafter, statement of the victim (Annexure P-4) was recorded by the learned Sub Divisional Judicial Magistrate on 18.10.2023, whereby the victim had sought discharge from the State Protection Home, Jalandhar, on her own responsibility and she had undertaken to furnish her new address before the Court within 12 days. It is submitted that, however, the victim is not traceable till date and has not been examined by the learned trial Court for almost one year. The petitioner has been in custody since 22.08.2023. Thus, it is prayed that the petitioner be released on regular bail.

Per Contra, learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and refers to



the statement of the victim dated 23.08.2023 (Annexure P-2) recorded under Section 164 Cr.P.C.; wherein she had stated as under:-

“..... Santok Singh used to extend threats to kill me. Since 2020 he has been committing rape with me. Earlier also I had made complaint to the police, but police did not take any action. Santokh ingh used to mix something in my meal also. He made promise of performing marriage with me and also developed physical relations with me. Santokh Singh is married. He had also said to me that he will get divorce from his wife and will perform marriage with me, but he did not get any divorce from his wife and has used me. My hearing is not being done. Very wrong is being done with me. Justice may be done towards me.”

However, upon a Court query, learned counsel for the State admits that there is no written complaint in this regard with the respondent-State. Learned counsel for the State also admits that victim in the present case is not traceable.

Learned counsel for the State has filed custody certificate dated 29.06.2024 which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 10 months and 06 days. Perusal of the custody certificate shows that the petitioner is also involved in one more FIR bearing FIR No. 43 dated 29.02.2020 under Section 420 IPC at Police Station City, Rupnagar. It is further informed that out of total 18 prosecution witnesses, 11 have already been examined including the complainant who has been examined as PW-1.

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 10 months and 06 days undergone by the petitioner as an undertrial; and also the fact that out of total 18 prosecution witnesses, only 11 have been examined till date and, therefore, conclusion of trial will take considerable time; and material witness i.e. the complainant already stands examined, whereas the alleged victim is admittedly not traceable; and therefore no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.

The petitioner-Santokh Singh @ Sukhwinder Singh S/o Lakhwinder 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.

01.07.2024

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(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No