

2024:PHHC:013014

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

212

**CRM-M-30841-2023
Date of decision: 31.01.2024**

Manpreet Singh @ Manu

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Harpreet Maini, Advocate,
for the petitioner.

Mr. Hemant Aggarwal, 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.37 dated 06.04.2023, registered for the offences punishable under Section 376 of IPC & Section 6 of POCSO Act, at Police Station Sadar Jalalabad, District Fazilka.

2. The case set up in the FIR in question is as follows:-

“Statement of Kajal Rani daughter of Shinder Singh son of Mang Singh, resident of Bhamba Wattu Uttar, aged about 17 years, M.No.94787- 07537. Stated that I am resident of above said address and I am 8th class pass. The name of my mother is Prakash Kaur. I have one brother namely Gurjant Singh who is elder to me. My mother is doing the work of making meals in the marriages where usually Manpreet Singh son of Shagan Singh resident of Dhandi Kadim was coming in the marriage programs due to which my mother came in contact with above said Manpreet Singh and Manpreet Singh was on visiting terms to our house. Manpreet Singh is already married. Due to casual visits of

Manpreet Singh to our house, I came in contact with him and we started conversing with each other. Manpreet Singh told in our house that I gave divorce to my first wife and Manpreet Singh was usually telling me that I will perform marriage with you but I was kept on replying that my age is little less at present. I will not do it in such manner but Manpreet Singh exerted pressure upon me and by alluring me performed marriage with me, who developed physical relations with me without my consent. I somehow get rid of him and came back my home, who was usually extending threat to my family that if you go against me then I will kill you. Due to which we did not disclose it to anyone. On 10.03.2023, my family members were not present at home. At about 12 PM, Manpreet Singh came to our house where Manpreet Singh committed rape upon me without my consent. After doing such act, he fled away from there. We did not disclose this thing to anyone but somehow gathering courage my mother Prakash Kaur admitted me to Civil Hospital, Jalalabad for medical where yesterday on 05.04.2023, after getting admitted over there, lady doctor conducted my medical. Now I came to know that Manpreet Singh has again performed marriage who kept on developing physical relations with me without my consent due to which appropriate legal action be taken against above said Manpreet Singh. Sd/- in Punjabi Kajal Rani. Second Sd/- in English Prakash Kaur (mother). Attested Sd/-Amarjeet Kaur SI PS Sadar Jalalabad dated 06.04.2023. Police proceedings: Today I SI was present at PS Amir Khas then one call from MHC PS Sadar Jalalabad was received that one girl is admitted in Civil Hospital, Jalalabad regarding rape, reach there for investigation. Upon which I SI reached at Civil Hospital, Jalalabad where ASI Paramjit Singh 254/FZK, S/LC Sarabjeet Kaur No.734, SC Gurjit Singh 826/FZK, PHG Kewal Krishan 5232 met where ASI Paramjit Singh handed over one ruqa No.289 dated 05.04.2023 regarding Kajal Rani wife of Manpreet Singh resident of Bhamba Wattu Uttar for action. Upon which I SI along with fellow officials reached in the ward where Kajal Rani along with her mother Prakash Kaur found present. Upon which Kajal Rani got recorded her above statement before me,

whose after recording was read over to her who appended her signatures in Punjabi after admitting it as correct. Statement has been identified by her mother. From the statement, offence u/s 376 IPC, 6 of POCSO Act is found to be made out. Upon which original ruqa along with original statement is being handed over to ASI Paramjit Singh for registering the case who was directed that further proceeding of the case be taken into effect. After registering the case, FIR number be intimated. Special reports be issued. PCR/FZK be informed. I SI is left for the spot. Sd/- Amarjeet Kaur SI PS Sadar Jalalabad dated 06.04.2023. In the area of Civil Hospital, Jalalabad at 9:25 PM. Today at police station: On the receipt of above said statement to police station, after registering the FIR under above offences against accused, copy of FIR along with original statement is being handed over to myself for further investigation. After releasing the special reports, the same are being sent to Illaqa Magistrate and senior officers through Constable Rajiv Kumar No.376/FZK. PCR/FZK is being informed through W/M and email.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 06.04.2023 & after completion of investigation, challan has been filed. It has been further submitted that the trial is underway wherein the victim has already been examined as a prosecution witness. Learned counsel for the petitioner has further argued that the FIR in question got registered on account of fall out of a consensual relationship. 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 accused was arrested on 06.04.2023 wherein after challan has been filed on 29.05.2023 & trial is underway. As per the custody certificate dated 30.01.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 10 months & is not shown to be involved in any other case. The rival contentions of the learned counsel for the parties as to whether the FIR in question is an outcome of a consensual relationship turning sour will 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. No tangible material has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. Suffice to say, 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 Ld.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

January 31, 2024
poonam

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