



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

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**CRM-M No.29872 of 2024
Date of decision : 11.11.2024**

Surinder Pal Singh**.....Petitioner****Versus****State of Punjab****.....Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Ms. Anupam Bhanot, Advocate, for the petitioner

Mr. Anup Singh, AAG, Punjab

Mr. L.S. Lakhanpal, Advocate, for the complainant

SUMEET GOEL, J. (ORAL)

1. Present second petition has been filed under Section 439 of the Cr.P.C for grant of regular bail to the petitioner in case FIR No.17 dated 9.2.2023, under Section 323 of the IPC (Sections 8, 10, 17 of POCSO Act and Sections 201, 354, 354-A of the IPC were added later on), registered at Police Station Kartarpur, District Jalandhar.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'Statement of Komalpreet Kaur dio Surinder Pal rio Village Bakhu Nangal PS Kartarpur Distt. Jalandhar aged around 17 years mobile no. 94634-84077. Stated that I am resident of abve mentioned address and after passing my 10+2 examination I am doing IELTS course from Kapurthala. My mother namely Narinder Kaur, who died around 03 years ago because of illness. My father Surinder Pal who is employed in foreign country Dubai, who had come to village Bakhu Nangal around 02 months back. Myself and my younger brother Navdeep Singh who is around 7 years old, who is studying in 3d standard, both of us live with our maternal



grandparents (nana-nani) in village Kheeran wali Distt. Kapurthala. My father did not come to pick both of us after returning from Dubai upon which me and my younger brother alongwith our Nani(maternal grandmother) came to our father in village Bakhu Nangal, where my father always used to ill treat me and comit immoral acts with me and used to touch my body with bad intentions. Regarding which many a times I told my Bua(paternal aunt) Kamlesh w/o Surjit Singh rio Khange and Manjit Kaur w/o Sukha r/o Dogranwali Distt. Kapurthala, on phone, regarding the bad acts of my father, but they told me that for some days I should adjust with my father, and they will perform his second marriage very soon. Yesterday on dated 6-2-2023 at around 9:00 PM at night me and my brother were sleeping in separate rooms when my father entered the room and forcibly made me get up from the bed and put me on the sofa lying besides it tried to untie the string of my jumper after pressing my mouth with his hands. I did not let my father untie the string. I started screaming on which my younger brother Navdeep Singh got up, who then started kicking my father and started crying hoarse and my younger brother opened the door and both of us ran out of the room. Who then caught hold of my hairs and threw me to the ground and started trying to forcibly take me inside the room and because of holding of my hairs and throwing me to the ground I got injuries on my neck and head. Then he picked up the datar lying nearby and gave reverse side blows on my arm and waist and gave reverse side blow of datar on my left knee and another blow of datar on my left foot, which hit on the upper side of toe of left foot. On hearing cries of myself and my brother Navdeep Singh, my taya's(uncle's) son Tirath, who lives in our neighbourhood, rushed in, to whom my father said, take out petrol from the scooter, I will set her on fire. On seeing people gathering my father fled from the spot with his datar. In these activities my father gets support from my Tayi(paternal aunt) Seema w/o Paramjit r/o Bakhu Nangal and my both Bua's(both aunts). Appropriate legal action be taken against my father Surinder Pal, Tayi(aunt) Seema and both of my Bua's. That I have got my this statement recorded in presence of my Massi(maternal aunt) Manjit Kaur w/o Gian Singh r/o DIPS Colony Shekhupur, Kapurthala PS City Kapurthala, statement has been read heard and found correct. Sd/- Komalpreet Kaur, witness Manjit Kaur 94634-84077.'

3. Learned counsel for the petitioner has argued that the petitioner



is in custody since 29.8.2023. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question as he had solemnized the second marriage which was not to the liking of the paternal family of the first wife as also the daughter born out of wedlock to his first wife. Learned counsel for the petitioner has submitted that the testimony of the victim has been recorded through whatsapp video recording, which is not permissible in law. Learned counsel has further submitted that all prosecution witnesses stand examined thus, there is no chance of the petitioner influencing the witnesses or interfering with the prosecution evidence. Learned counsel has further submitted that the petitioner has suffered incarceration for more than one year and has no criminal antecedents. Thus, regular bail is prayed for.

4. Learned State counsel as also learned counsel for the complainant have opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned counsel for the complainant further iterated that the victim, when examined as prosecution witness, has completely ratified the stand of the prosecution and hence the petitioner is likely to be convicted. Therefore, it has been prayed that the petition in hand be rejected.

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

6. The petitioner was arrested on 29.8.2023 whereinafter investigation was carried out and challan stands presented on 3.10.2023.

It is not in dispute that all prosecution witnesses stand examined, it is thus



indubitable, that there is no likelihood of the petitioner interfering with the prosecution evidence. However, accused has a right to lead defence evidence, in accordance with law. Therefore, the arguments of learned State counsel as also learned counsel for the complainant that since all prosecution witnesses stand examined, the bail petition deserves to be rejected, does not hold good. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question as also the weightage required to be attached to the testimony of the victim which has been recorded on whats-app video recording; 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 trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 5.11.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than one year, two months and six days & is not shown to be involved in any other case.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present 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 cell-phone 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/Illaqa 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. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

11.11.2024
Ashwani

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No