



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

220

CRM-M-31645-2024 (O&M)
Date of decision: 30.07.2024

SUSHIL KUMAR ALIAS ASHU

...Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Jaspreet Singh Brar, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

HARPREET KAUR JEEWAN, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.0090 dated 24.06.2023 (Annexure P-1) under Sections 363, 366-A IPC (Section 376 IPC and Sections 3 and 4 of the POCSO Act, 2012 added later on) registered at Police Station City Malout, District Sri Muktsar Sahib.
2. Custody certificate dated 27.07.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the petitioner has undergone 01 year 01 month and 01 day of actual custody.
3. As per the prosecution case, the present FIR was registered at the instance of the father of the prosecutrix with the allegations that the petitioner had enticed away his daughter on the pretext of marriage.



4. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case and he is in custody since 26.06.2023. He further contends that the statements of the material witnesses including the victim have already been recorded during the trial (Annexure P-3 to P-5). Referring to the DNA examination report (Annexure P-2), learned counsel for the petitioner submits that even the human semen and male DNA was not detected in the vaginal swabs of the victim. As per the statement of Dr. Ramiti Gupta, MO, CH, Malout, who appeared as PW-4 (Annexure P-6), no human semen and male DNA was detected in the exhibits (A1 to A4). He further submits that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. The petitioner is ready to face trial. The trial is going to take time to conclude, as such, prayer for releasing the petitioner on bail has been made.

5. On the other hand, learned State counsel has opposed the bail petition on the ground of gravity of allegations against the petitioner. Learned State counsel on instructions from SI Karamjeet Kaur has confirmed that the statements of the material witnesses including the victim have been recorded. Investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. As per the custody certificate, there is no history of other cases against the petitioner.

6. I have considered the aforesaid contentions and perused the paper-book.

7. Investigation is complete and the final report under Section 173 of the Code of Criminal Procedure has been presented before the trial Court. As per the custody certificate, there is no history of other cases against the petitioner. The



petitioner is in custody for 01 year 01 month and 01 day. Statement of the material witnesses including the victim have already been recorded. There is no medical evidence against the petitioner. Conclusion of the trial is going to take time.

8. In view of the above, the petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds and surety bonds to the satisfaction of the trial Court/Special Court concerned.

9. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

10. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

30.07.2024
P.Bhatt

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