



212

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32427-2024 (O&M)
Date of decision: 16.07.2024

Bikram Ram

... Petitioner

Vs.

State of Punjab

... Respondent

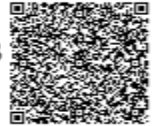
CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vishal Mehta, Advocate,
Mr. Luvinder Sofat, Advocate,
Mr. Mehardeep Singh, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

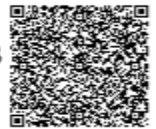
HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in case bearing FIR No.0069 dated 08.04.2024 under Sections 406, 420, 384, 376, 506 of the Indian Penal Code, 1860, registered at Police Station Division No.6, District Police Commissionerate Ludhiana.
2. The present FIR was registered on the statement of the prosecutrix on the allegations that she joined Punjab Police as Female Constable on 01.09.2022 and was deployed at Chowki Sherpur, Police

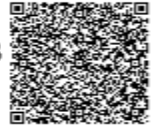


Station Division No.6, Ludhiana and prior to that, she was a wrestler. In January, 2018, she attended a wrestling tournament at Shaheed Udham Singh Stadium, Munak, where she was introduced to the petitioner, who claimed himself to be a wrestling coach and they became acquainted. In September, 2019, she was scheduled to go to abroad to participate in an international wrestling competition and gave her documents to the petitioner to complete the necessary paperwork for her trip. In 2021, on the advice of the petitioner, the prosecutrix applied for the post of Sepoy in Punjab Police and upon joining the force, the petitioner mentioned the name of the prosecutrix as his wife. The complainant got distressed and when she confronted the petitioner, he admitted the deception and threatened her to get dismissed from service and due to this, she kept mum. On 13.02.2024, when she was on duty, the petitioner visited her rented accommodation in Ludhiana. On the pretext of rectifying her ID card, he took her to the rented room and under duress, she complied with his instructions. Thereafter, he locked the door of the room and forcibly committed rape upon. Prior to that incident, the petitioner threatened and raped her at her residence. He also threatened her parents and forced her to make the payments through Google Pay. On 08.04.2024, while she was on duty, the petitioner reached there and threatened her and attempted to take her away forcibly. Having finally gained the courage, she made a formal statement to the above effect and prayed for taking legal action against the petitioner.

3. Learned counsel for the petitioner, *inter alia*, contends that the



petitioner has been falsely implicated in the present case, due to matrimonial discord between the petitioner and the prosecutrix. At the time of registration of FIR (*supra*), the prosecutrix-complainant was serving in Police Station Division No.6, District Police Commissionerate Ludhiana, in which FIR (*supra*) has been registered and the prosecutrix very conveniently withheld the material available on record, which clearly proves that the petitioner and the prosecutrix performed marriage in the month of April, 2018. Reliance in this regard can be placed upon Annexure P-4 i.e. passport issued on 02.08.2019 to the prosecutrix, in which name of the petitioner is shown as her husband. Learned counsel further relies upon Annexure P-5 (form for obtaining driving licence) dated 23.02.2021 and OBC Certificate (Annexure P-6) issued on 28.06.2019, in which the prosecutrix is shown as wife of the petitioner. Further, photographs (Annexures P-7 to P-13) clearly indicate that the petitioner and prosecutrix are married to each other. The prosecutrix procured her employment as Constable in Punjab Police on the basis of OBC Certificate (Annexure P-6) and the investigating agency has acted at her behest and falsely implicated the petitioner. The allegation of incident of rape as mentioned in the FIR (*supra*) is of 13.02.2024, however, the FIR has been registered on 08.04.2024. The investigation is complete and the jurisdictional police authorities arrested the petitioner on the same day i.e. 08.04.2024 and took all the documents from his house, which do not find mention in the final report under Section 173 Cr.P.C. presented before learned jurisdictional Court.

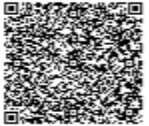


4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that the petitioner cheated the prosecutrix and without her consent, has mentioned her as his wife in official record, which is causing great distress and stigma and he has sexually exploited her. He produces the custody certificate dated 15.07.2024 of the petitioner in the Court today, which is taken on record. However, he could not controvert the fact that the petitioner is not involved in any other case.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind bars since 08.04.2024; the investigating agency has already concluded the investigation and submitted the final report under Section 173 Cr.P.C. before the concerned jurisdictional Court on 03.06.2024 and trial of the case is likely to take long time in its conclusion as out of total 15 prosecution witnesses, none has been examined so far. The culpability, if any, would be determined at the time of trial. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

6. A two Judge Bench of the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51***, with respect to prevailing conditions of undertrial prisoner in India has observed as under: -

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd



of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

7. In view the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Bikram Ram is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

[HARPREET SINGH BRAR]
JUDGE

16.07.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No