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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34199-2024 (O&M)

Date of Decision: 24.07.2024

RANJEET SINGH

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Meenu Verma, Legal Aid Counsel for the petitioner.
(through Video Conferencing).

Mr. Anup Singh, AAG, Punjab.

...

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 12.07.2024 under Section 439 of Cr.P.C., 1973 for grant of regular bail.

As per the judgment rendered by this Court titled '*Abhishek Jain Vs. State of U.T. Chandigarh and another*' (CRM-M-31808-2024) **2024PHHC085784**, the instant petition is not maintainable under Section 439 of Cr.P.C., 1973. However, keeping in view the entirety of facts and circumstances of the case especially that the instant petition pertains to regular bail, the instant petition is directed to be considered as a petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

1. Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.199 dated 18.08.2022, registered for the offences punishable under Sections 376/506 of IPC and Sections 5 and 6 of POCSO Act at Police Station Lambi, District Sri Muktsar Sahib.

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

“Statement of Amandeep Kaur d/o Piara Singh r/o Channu aged about 14½ years mobile no. 70XXXXXXX stated that I am resident of aforementioned address and studying in 9th class in government school of our village and I have one brother aged about 12 years. My father got expired about two years ago and my mother Shinder Pal Kaur took us to village Dabwali, where her maternal uncle was residing and lived there for 1½ years. About 6 months back, my grandmother and her paternal aunt Paramjit Kaur took us to village Channu and she started residing there. In our home, my Paternal uncle Ranjit Singh is residing in separate house alongwith his three daughters. On 16.08.2022, on Tuesday night, when I was sleeping on cot in our courtyard my uncle picked me and took me to his room, due which I got awaken. Then I tried to raise screams but he put his hand on my mouth and then committed rape with me against my wishes without my consent. Thereafter, I came back to my cot. Next day, when I was getting ready for school, then my uncle Ranjit Singh threatened me of dire consequences. I disclosed whole incident to my mother, who admitted me to Civil Hospital, Lambi and doctor conducted my medical. On these allegations, necessary legal action be taken against my uncle Ranjit Singh and justice be granted to me ”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 19.08.2022. Learned counsel for the petitioner has further argued that the challan qua the FIR in question was presented on 04.10.2022 whereinafter charges were framed on 09.01.2023 but no prosecution witness has been examined till date. Learned counsel for the petitioner has relied upon the zimni/interim orders passed by the trial Court on 26.10.2023, 18.03.2024, 10.05.2024 and 12.02.2024 to substantiate her argument that no prosecution witness is coming forward to have the testimony recorded and no fault can be attributed to the petitioner in this regard.



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4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail.

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

6. The petitioner was arrested on 19.08.2022 whereinafter investigation was carried out & challan was presented on 04.10.2022. Total 22 prosecution witnesses have been cited. A perusal of the zimni orders dated 26.10.2023, 18.03.2024, 10.05.2024 and 12.02.2024 shows that no prosecution witness has been examined in the trial undertaken against the petitioner after framing of charges on 09.01.2023 whereas the petitioner is in custody since 19.08.2022. Indubitably, the petitioner is an accused of serious offence but at the same time the petitioner cannot be kept into indefinite custody where there is no effective progress in the trial. It would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in a case of '**Javed Gulam Nabi Shaikh Vs. State of Maharashtra and another**' decided in **Criminal Appeal No.2787 of 2024 arising out of SLP (Crl) No.3809 of 2024**', relevant whereof reads as under:-

"19 If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20 We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly. howsoever stringent the penal law may be.

21 We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the

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right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

Further, 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 the custody certificate dated 23.07.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 01 year and 11 months & 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 present case.

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.



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(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. 14½

24.07.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No