

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

217+109 CRM-M-38259-2023 (O&M)
Date of decision: 20.08.2024

MOHD. NADIM ALAM
Versus ...Petitioner

STATE OF PUNJAB
...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Ms. Riffi Birla, Advocate for
Mr. Ravi Malhotra, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

HARPREET KAUR JEEWAN , J.

CRM-32706-2024

1. The present application has been filed for placing on record copies of the statement as Annexure A-1.
2. For the reasons mentioned in the application, the same is allowed.
3. Annexure A-1 is taken on record subject to all just exceptions.
4. Office to tag the same at appropriate place.

Main case

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.257 dated 07.08.2022 under Section 376 IPC registered at Police Station Dera Bassi, District SAS



Nagar.

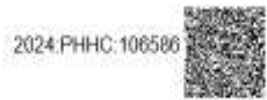
2. Custody certificate dated 20.08.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the petitioner has undergone 02 years and 12 days of actual custody.

3. The petitioner is facing trial with the allegations that he has committed rape upon the prosecutrix 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 for more than 2 years. He further contends that both the petitioner and the prosecutrix were major and there was a relationship *inter se* them. The prosecutrix is married to some other person. The statement of the prosecutrix has already been recorded. He submits that there is no medical evidence against the petitioner. 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. He further submits that 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. As per the custody certificate, there is no history of other cases against the petitioner. She has informed that medical examination of the victim could not be conducted as the date of the alleged history of sexual assault was 21.05.2022, whereas the application for medical examination was submitted on 11.08.2022. As such, medical examination could not be conducted due to delay.

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



- book.
7. The statement of the prosecutrix has been recorded by the trial Court on 06.06.2024 (Annexure A-1). As per the said statement, the prosecutrix has alleged that her parents had agreed for solemnization of her marriage with the petitioner and she was more than 18 years of age at that time. However, on 21.05.2022 the petitioner had forcibly committed rape upon the prosecutrix and later on, the prosecutrix came to know that the petitioner had solemnized marriage with another person.
8. 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 02 years and 12 days. Statement of the prosecutrix has already been recorded. There is no apprehension of tampering the prosecution evidence and conclusion of the trial is going to take time.
9. 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/Duty Magistrate concerned.
10. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.
11. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

20.08.2024
P.Bhatt

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