

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

214

CRM-M-39245-2023(O&M)
Date of decision: 08.05.2024

GAURI SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. Pankaj Garg, Advocate
for the petitioner.

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.86 dated 19.12.2022 (Annexure P-1) under Sections 376(2)(n), 323, 506 of the IPC registered at Police Station Sehna, District Barnala.
2. Notice of motion.
3. On the asking of the Court, Ms. Sakshi Bakshi, AAG, Punjab accepts notice on behalf of the respondent-State.
4. Custody certificate dated 08.05.2024 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 04 months and 09 days of actual custody.
5. Status report by way of an affidavit of Manavjit Singh Sidhu, PPS, Deputy Superintendent of Police, Sub-Division, Tapa, District Barnala along with copy of MLR (Annexure R-1), FSL report (Annexure R-2) and opinion of doctor

(Annexure R-3/T) have been filed on behalf of the respondent-State, which are taken on record.

6. As per the prosecution case, the present FIR was registered with the allegations that the petitioner had forcibly developed physical relationship with the prosecutrix. As per the FIR, on 18.12.2022, the petitioner came and hold the prosecutrix from left arm and started abusing her and asked her to come in the room. When the prosecutrix resisted to do so, the petitioner dragged her and took her outside in the street and beaten up the prosecutrix. Thereafter, the matter was reported to the police, wherein the prosecutrix alleged that though initially she was having physical relationship with the petitioner but later on, the petitioner had been forcibly developing physical relationship with her.

7. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case and he is in custody since 30.12.2022 as under-trial. He further contends that the petitioner and the prosecutrix were having a consensual relationship after the husband of the prosecutrix expired in the year 2017. The injuries alleged to have been attributed to the petitioner are simple in nature. He has referred to the photographs (Annexure P-2), statement of the Sarpanch, Gram Panchayat (Annexure P-3) and Panchayati Razinama (Annexure P-5) to show that it was a consensual relationship *inter se* the petitioner and prosecutrix. He 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. 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.

8. On the other hand, learned State counsel on instructions from ASI

Sewa Singh has informed that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court.

9. I have considered the aforesaid contentions. Investigation is complete and the final report under Section 173 of the Code of Criminal Procedure has been presented before the trial Court. The statement of the prosecutrix is stated to have been recorded in the trial. As per FSL report, human semen and male DNA was not detected on the swabs of the prosecutrix, as such there is nothing incriminating against the petitioner. The allegations against the petitioner are yet to be proved in the trial. The petitioner is in custody for 01 year 04 months and 09 days.

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

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

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

(HARPREET KAUR JEEWAN)
JUDGE

08.05.2024
P.Bhatt

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