

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

223

**CRM-M No.40883 of 2024
Date of decision : 29.8.2024**

Padarath Singh**Petitioner**
Versus
State of Punjab**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

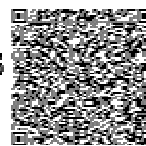
Present: Ms. Samanpreet Kaur, Advocate, for the petitioner

Mr. Anup Singh, AAG, Punjab

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.30 dated 29.2.2024, under Sections 376, 451, 506 and 450 of IPC (added later on), registered at Police Station Lopoke, District Amritsar Rural.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'Statement of Gurjit Kaur D/o Lt. Satpal Singh R/o Tapiala P.S. Lopoke age about 20 years mobile no. 7986025880 stated that I am resident of above address. We are three siblings out to whom eldest is my brother Jobanpreet Singh, younger than him is sister Navpreet Kaur and youngest is me. My brother is married and both of us sisters are unmarried. Due to matrimonial differences between my brother and his wife, she stays at her home. My father Satpal Singh has died since last 8 months. My mother



Gurmeet Kaur is doing labour work. I have passed my class 12th from government sr. sec. school village tapiala and some time ago I was working in the liquor factory at khasa and at that time Padarth Singh S/o Jagtar Singh R/o Village Bhullar who is an auto driver, I used to go in his auto and he used to see me with bad eye at that time. Due to that shame I stopped going at the work but I did not discuss anything with anyone. That now from last 4-5 months I am doing household work only. On 26.02.2024 my mother Gurmeet Kaur, sister Navpreet Kaur, brother Jobanpreet Singh had gone out of the house for working and I was along inside my house. At about 11 AM the door of our house was closed from outside which was knocked from outside and when I opened the door, I saw that Padarath Singh s/o Jagtar Singh r/o bhullar was standing outside who asked me about my family. I have to take the charges of my auto. I informed him that no one is present at my house and told him to come later. In the meantime Padarath Singh told that he is feeling thirsty and asked for water. Then I went to my residential room for taking water and when I was about to come after taking the glass then padarath singh came inside the room after me and locked the door of the room from inside and by forcefully holding my arm threw me on the bed. He shut my mouth with his hand and threatened me that if you raise the alarm then he will kill me. After which he made physical relation with me against my wishes. I stopped him but he did not stop. Padarath singh forcefully committed rape upon me and ran from our house and while going he threatened that if I inform about this to anyone then he will kill me and my family. I due to being afraid and due to shame did not talk about this with anyone. When I used to live silently then my mother asked for the reason of me being silent. Then I informed the whole incident to my mother. That today I along with my mother Gurmeet Kaur was coming to you for informing to you and you have met us at the police station. It is requested that legal action be taken against padarath singh and justice be provided to us. Statement has been recorded and found to be true. SD/- Gurjit Kaur, endorsed SD/- thumb impression RTI mother Gurjeet Kaur above SD/- Inderbir Kaur L/INSP P.S. Lopoke.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 29.2.2024. Learned counsel has further submitted that the material private witnesses (when examined as prosecution witnesses)



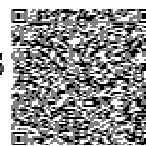
have not supported the case of the prosecution and, hence the trial is not likely to culminate in conviction. Learned counsel for the petitioner has further submitted that the petitioner is a young man aged 27 years with no criminal antecedents. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 28.8.2024 in Court, which is taken on record.

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

6. The petitioner was arrested on 29.2.2024, wherein after investigation was carried out and challan was presented on 2.9.2024. Total 16 prosecution witnesses have been cited out of which 3 private prosecution witnesses have already been examined. It is not in dispute that the prosecution witnesses have turned hostile and have not supported the prosecution case. The rival contention of learned counsel for the parties; regarding the weightage required to be attached to the testimonies of hostile witnesses; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. 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 custody certificate dated 28.8.2024 filed by learned State counsel,



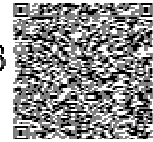
the petitioner has already suffered incarceration for a period of 5 months and 24 days. Further, as per this custody certificate, the petitioner is not shown to be involved in any other case

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of present case.

7. In view of above, the present 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.
- (vi) The petitioner shall give his cell-phone 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/Illaqa 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.

(SUMEET GOEL)
JUDGE

29.8.2024
Ashwani

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