

Sr. No.219

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

CRM-M-45702-2023
Date of decision: 02nd April, 2024

SUNIL DUTT**Petitioner**

versus

STATE OF HARYANA**Respondent**

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Amanpal, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

HARPREET KAUR JEEWAN, J. (ORAL)

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.247 dated 31.08.2022, under Sections 376, 120-B of IPC, registered at Police Station Rajound, District Kaithal (Annexure P-2).
2. As per the prosecution version, on 31.08.2022 at about 12:00 PM, the prosecutrix hired a taxi for travelling from Alewa to Rajound. The petitioner was the driver of the said taxi. The petitioner stopped the taxi near Rajound and he forced himself upon the prosecutrix and committed rape upon her and thereafter, he dropped the prosecutrix on the main road.
3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He is in custody since 16.11.2022. The prosecutrix has already been examined during the trial. She is a married woman aged 29 years. The alleged occurrence is stated to have taken place during the day time, which is highly improbable.

4. Learned State counsel has filed status report by way of affidavit of Sh. Lalit Kumar, HPS, Deputy Superintendent of Police (AEC), Kaithal, on behalf of respondent-State of Haryana, which is taken on record. Custody certificate of the petitioner/accused Sunil Dutt has also been filed, reflecting his period of custody as 01 year 04 months and 16 days. As per the custody certificate, there are 02 other cases against the petitioner which are as under:-

- “1. FIR No.93/2015 dated 04.07.2015, U/s 323, 452, 354-A IPC, PS Alewa, Jind.*
- 2. FIR No.46/2017 dated 08.03.2017, U/s 20, 61, 85 of NDPS Act, PS Alewa, Jind.”*

4.1 Learned State counsel has opposed the present petition on the ground of gravity of allegations levelled against the petitioner. However, it has been confirmed by the learned State counsel that though semen was detected as per the Forensic Science Report, but DNA of the petitioner did not match with the prosecutrix.

5. In regard to the above-said two FIRs, learned counsel for the petitioner submits that the petitioner has already been acquitted in FIR No.93/2015 dated 04.07.2015, as per the judgment dated 04.08.2016 passed by the Court of Judicial Magistrate First Class, Jind (Annexure P-12) and he has also been acquitted in FIR No.46/2017 dated 08.03.2017, as per the judgment dated 23.08.2023, passed by the Court of Special Judge (under Narcotic Drugs and Psychotropic Substances Act, 1985), Jind (Annexure P-11).

6. I have considered the aforesaid contentions.

7. Investigation is complete. Final report/challan under Section 173 Cr.P.C. has been presented before the trial Court. Statement of the prosecutrix has already been recorded during the trial. The allegations levelled against the

petitioner are matter of trial. As per the medical examination report of the prosecutrix (Annexure P-3), there are no external injuries on the body of the prosecutrix. The trial will take some time to conclude and there is no apprehension of absconding of the petitioner during the trial, as such, without commenting on the merits of the case and keeping in view the above facts, the present petition is allowed.

8. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds/surety to the satisfaction of the trial Court/CJM, concerned.

9. Pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

02nd April, 2024
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>