

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-47086-2023 (O&M)
Date of decision : 29.04.2024

Manga ... Petitioner(s)

Versus

State of Punjab ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Riffi Birla, Advocate for the petitioner.

Mr. Jasjit Singh, DAG Punjab.

ALKA SARIN, J. (ORAL)

1. This is a petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.83 dated 16.09.2021 under Sections 376-D/342/506 of the Indian Penal Code, 1860, registered at Police Station Sadar Abohar, District Fazilka (Annexure P-1).
2. Briefly stated, the facts of the present case are that on 08.02.2021 one Murti Kaur is alleged to have administered certain intoxicants to the prosecutrix who is stated to have fallen unconscious and thereafter regained consciousness in Kaithal where Gurpiar Singh @ Mehanga - the co-accused - raped her continuously for 7-8 months and also gave her beatings. Allegation against the petitioner is that the prosecutrix was confined to the house by the petitioner and was also given beatings by

the petitioner. The co-accused - Gurpiar Singh @ Mehanga - was granted regular bail by this Court vide order dated 05.09.2022 passed in CRM-M-25683-2022. A perusal of the said order reveals that the prosecutrix in the present case is a married lady aged 34 years who is stated to have been in love with the co-accused - Gurpiar Singh @ Mehanga. During the course of their relationship, they had filed a joint complaint dated 02.03.2021 before the Punjab State Human Rights Commission, Chandigarh seeking protection of their life and liberty which they felt was threatened at the hands of the husband of the prosecutrix and her father-in-law. On 08.03.2022 the Commission disposed off the complaint with a direction to the State to assess the threat perception and to provide adequate protection, if required. The present petitioner herein was declared a proclaimed offender vide order dated 16.11.2022. Thereafter he filed the petition being CRM-M-13315-2023 for quashing of the said order which was dismissed vide order dated 19.05.2023. Subsequently the petitioner herein had surrendered before the Court on 29.07.2023.

3. Learned counsel for the petitioner would contend that the petitioner has been in custody for a period of 09 months and 02 days and that there is no other case pending against him. It is further the contention of the learned counsel that the only allegation against the petitioner is that he had confined the prosecutrix to the house and had also given her beatings. The learned counsel would further contend that the allegations of rape are against the co-accused - Gurpiar Singh @ Mehanga - who has since been granted

the concession of regular bail by this Court vide order dated 05.09.2022 passed in CRM-M-25683-2022. Learned counsel has further pointed out that out of 17 witnesses, only 2 have been examined.

4. Learned counsel for the State has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 09 months and 02 days and that there is no other case pending against the petitioner. Learned counsel for the State has also placed on record the DNA Report which also reveals that there was no human semen and male DNA detected in the samples collected. Learned State counsel is not in a position to deny the fact that out of 17 witnesses, only 2 have been examined and that the co-accused - Gurpiar Singh @ Mehanga - against whom allegations of rape have been made, has since been granted the concession of regular bail by this Court vide order dated 05.09.2022 passed in CRM-M-25683-2022. Learned State counsel has pointed out that since the petitioner was declared a proclaimed offender, hence, there are chances of him jumping bail.

5. Heard.

6. In the present case the petitioner has already been in custody for a period of 09 months and 02 days and that there is no other case pending against the petitioner. Out of 17 witnesses, only 02 have been examined. The allegations against the petitioner are that of beatings and of having confined the prosecutrix to the house. The allegations of rape are against the co-accused - Gurpiar Singh @ Mehanga - who has since been granted the

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concession of regular bail by this Court vide order dated 05.09.2022 passed in CRM-M-25683-2022. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

7. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. Keeping in view the fact that the petitioner had earlier been declared a proclaimed offender, the petitioner is directed to be released on bail subject to his furnishing bail bonds with heavy surety to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

8. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

9. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

10. Disposed off. Pending applications, if any, also stand disposed off.

29.04.2024

Yogesh Sharma

(ALKA SARIN)

JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO