

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH
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CRM-M No.48057 of 2023
Date of decision: 05.01.2024

Tinku ... Petitioner

Vs.

State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Raghav Goyal Chandiwalla, Advocate,
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab,
for the respondent-State.

Complainant in person with
Mr. Matinder S.Brar, Advocate.

MANISHA BATRA, J.

1. The instant petition for grant of regular bail has been filed under Section 439 of Cr.P.C. by the petitioner seeking regular bail in case bearing FIR No.112 dated 21.07.2023 registered under Sections 354, 376 and 34 of IPC at Police Station City Sri Muktsar Sahib, District Sri Muktsar Sahib.
2. The brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of statement recorded by the prosecutrix “S” (name withheld) on 21.07.2023 alleging therein that she was married with accused Tinku on

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21.09.2017. Sometime after her marriage, the accused Ravi who is brother of her husband started keeping an evil eye upon her. He tried to molest her one day. She apprised about this fact to her husband who despite assuring her, did not do anything. On 24.04.2022, the accused Ravi entered inside her room and committed rape upon her. The prosecutrix told about this fact to her mother-in-law who too assured to prevail good sense upon accused Ravi but did not do anything. Even her husband told her that she would have to continue like that if she wanted to live in their house. The brother of her husband ravished her 6-7 times. On 07.06.2022, her husband threw her out of her matrimonial house by saying that she was of no use for him. Investigation proceedings were initiated. The accused Ravi as well as the present petitioner who is husband of the complainant were arrested. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, they are facing trial for commission of offences punishable under Sections 354 and 376 read with Section 34 of IPC.

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 21.07.2023. He has been falsely implicated in this case. There is delay of one year and three months in lodging of the FIR. The allegations under Sections 354 and 376 of IPC have not been made out as against him but as against the co-accused. A compromise has been arrived at between the parties and the complainant has executed the same in writing. She has also sworn an affidavit in his favour. She did not get her medico legal examination conducted. They will be living in harmony.

The trial is likely to take time. Therefore, it is argued that he deserves to be given concession of bail.

4. Per contra, learned State counsel has argued that the petitioner did not deserve to be given concession of bail as it was with his active connivance that his brother had been ravishing the victim who was none else than his own wife and the allegations against him were serious in nature.

5. Learned counsel for respondent No.2 as well as the complainant who is present in Court in person, have submitted that the complainant is residing in her matrimonial house and a compromise has been effected between them.

6. I have heard learned counsel for the parties and have perused the record.

7. The petitioner is alleged to have facilitated to his own brother i.e. the accused Ravi, the act of committing rape upon his wife. There is a delay of one year and three months in reporting the matter to the police in this case. The petitioner is in custody since 21.07.2023. The trial is likely to take time. Though this Court cannot go into the question of genuineness or otherwise of the compromise stated to have been arrived at between the parties as that is a matter to be decided by the trial Court but keeping in view the period spent by the petitioner in custody, the nature of the allegations which have been levelled against him and the attendant facts and circumstances, I am of the opinion that the petitioner

deserves to be given concession of bail at this stage. Hence, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

05.01.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No