

CRM-M-51839-2023
Date of decision: 6th March, 2024

...Petitioner(s)

Versus

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sukhwinder Singh, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.
Mr. Sahil Kumar, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.

seeking regular bail in FIR mentioned below:-

FIR No.	Police Station	Sections
48	Lambi, District Sri Muktsar Sahib	376 and 452 of Indian Penal Code, 1860 (for short 'IPC')

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 01.03.2023 on the basis of statement recorded by prosecutrix 'N' (name withheld) alleging therein that on the intervening night of 27.02.2023, she was alone in her house when the present petitioner who is residing in her neighbourhood suddenly entered inside her room and threw her on her bed. A scuffle has taken place between them. She tried to raise alarm but petitioner had covered her mouth by a cloth and forcibly committed rape upon her and thereafter, he

fled away from the spot. Thereafter, she raised noise and on hearing which her sons reached at the spot. She was taken to hospital. She prayed for taking action against the culprit. On the basis of her statement, the aforementioned FIR was registered. Investigation proceedings were initiated. Medico legal examination of the prosecutrix was conducted. Her statement under Section 164 of Cr.P.C. was recorded, wherein she reiterated the same allegations. The petitioner was arrested on 01.03.2023. He was also medically examined. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for the commission of the abovementioned offences. He had filed an application for grant of regular bail before the learned trial Court which had been dismissed vide order dated 23.07.2023.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. There is delay of two days in registration of the FIR, which shows that it was recorded after making due deliberations and concoctions. The story as narrated by the prosecutrix is improbable and unnatural. The medico legal report did not show any external injury on her person. The petitioner is in custody since 01.03.2023. The trial is likely to take time. The prosecutrix has already been examined. There is no question of petitioner's intimidating her or any other witness. Infact, it was a case of consensual relationship and the prosecutrix lodged the FIR under the pressure of her husband. With these broad submissions, it is argued that the petition deserves to be allowed and the petitioner deserves to be extended

benefit of bail.

4. Status report has been filed by respondent No.1. It is submitted that after conducting thorough investigation in the matter, the allegations as levelled against the petitioner were found to be correct. The vaginal swabs of the victim and blood samples of the petitioner have been sent to FSL and the reports from the FSL and DNA are yet to be awaited. It is argued by learned State counsel assisted by learned counsel for the complainant that in her sworn deposition, as recorded by prosecutrix before the learned trial Court, the prosecutrix has deposed in support of the version of the prosecution. The allegations against the petitioner are serious in nature. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. As per the allegations, the petitioner had criminally trespassed into the house of the prosecutrix in the evening of 27.02.2023 when she was alone and had ravished her and thereafter, fled away. Though during the course of arguments, learned counsel for the petitioner has taken a plea that it is a case of consensual sexual relationship and not a case of rape. However, in her statement as recorded under Section 164 of Cr.P.C. as well as in her sworn testimony, the prosecutrix is shown to have reiterated the pleas as taken at the time of lodging of FIR. It is well settled proposition of law that delay in reporting the matter in such like cases cannot be stated to be a ground to disbelieve the version of the victim. Keeping in view the

nature of the allegations which have been levelled against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the present petition does not deserve to be allowed. Hence the same is dismissed.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]

JUDGE

6th March, 2024

Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No