

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

216

CRM-M-57267-2022
Date of decision: 04.04.2024

JOBANPREET SINGH @ JOBAN @ GANDA

....Petitioner

V/s

STATE OF PUNJAB & ANOTHER

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Navkiran Singh, Advocate,
for the petitioner.

Mr.Adhiraj Singh Thind, AAG, Punjab.

Mr. R.G.S. Saini, Advocate for complainant-respondent No.2.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.166 dated 28.08.2022 registered for the offences punishable under Sections 376 (AB) and Section 6 of the Prevention of Children from Sexual Offences Act, 2012 of IPC at Police Station Sadar, District Tarn Taran.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Statement of Sukhdeep Kaur @ Babli W/o Gulzar Singh S/o Tarsem Singh R/o Kot Kaspat (Teja Singh Wala) aged approx. 30 years Police Station Sadar Tarn Taran Mobile No. 76964-66791. Stated that I am Resident of above said address and work as a domestic helper. I have four children, three sons and our daughter. That my daughter is aged 12-13 years and studies in 5 ^ (th) standard in village school at Kot Jaspat. My daughter on date. 16.08.2022 around 2pm went to shop for buying

goods. That around 4pm in the evening she come back that I saw that there were blood stains on the Salwar which my daughter Ramanpreet Kaur was wearing. That I asked my daughter Ramanpreet Kaur about this blood- stain, she was perplexed, she did not tell me anything. I kept asking her about blood stains that regarding this she told me today that Mummy, that day Joban @Ganda S/o Balwinder Singh R/o Teja Singh Wala he took me from near the Chakki to graziery of fields and removed my Salwar by pulling it and did bad act with me. That I started crying and he sent me after scolding me. I kept fearing. All this by my daughter Ramanpreet Kaur aged approximately 12-13 years, who is minor, that Joban @ Ganda by committing rape forcibly with my minor daughter Ramanpreet Kaur has done very wrong thing. That I have been asking my daughter everyday regarding this incident, verifying, that my daughter who was nervous did not me complete thing. That she has told me everything, I along with my husband and daughter Ramanpreet Kaur has come to Police Station for giving the information. That got the statement recorded with you, legal action be taken against Joban Ganda for forcibly taking my daughter and committing rape upon her. Statement has been recorded with you, which is correct. That statement was typed on laptop and read over to Sukhdeep Kaur and explained to her, she after considered her statement as true singed it in Punjabi and her husband verified it. On which I verified the above, prima facie offence U / s 376-AB IPC and 6 POSCO Act is found to be made out. On which for registration of case, original statement was handed to MHC ASI Sarabjit Kumar No.176. After registration of FIR, No. be informed. Special reports be issued and sent to Senior Officials. Control Room be informed through e-mail. I/ SI along with companion officials is going to the spot with complainant. Sd/- Sunita Rani SI, P.S. Sadar Tarn Taran dated 28.08.2022 today at P.S. Sadar Tarn Taran at 6: 05 PM”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 12.10.2022. Learned counsel for the petitioner has further argued that there was 12 days delay in registration of the FIR. Learned counsel for the petitioner has further submitted that the petitioner has been falsely implicated into the FIR in question as there was

a dispute between the family of the petitioner and family of the victim on account of Sarpanch related election. Learned counsel has further argued that the testimony of the mother (when recorded as PW-1) does not inspire confidence as she has stated to have burnt the Salwar of the victim having blood stains. Learned counsel for the petitioner has also contended that there is no medical evidence available on record to substantiate the case of the prosecution. Thus, regular bail is prayed for.

4. Learned counsel for the State as also learned counsel for the complainant have opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of regular bail.

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

6. The petitioner was arrested on 12.10.2022 whereinafter investigation was carried out & challan was presented on 21.10.2022. Total 22 prosecution witnesses have been cited out of which 06 stand examined. Accordingly, the culmination of the trial will take its own time. The private material witnesses i.e. the mother of the victim/complainant and the victim already stand examined as PW-1 & PW-2 respectively. The rival contention of the learned counsel for the parties; regarding the weightage required to be attached to the testimony of the mother of the victim/complainant as also the victim, the aspect of there being delay in registration of the FIR as also the aspect of there being any political rivalry between the families of the petitioner and the victim; 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 remaining prosecution evidence. As per the custody certificate dated 02.04.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 01 year and 06 months & 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 the present case.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned 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 cellphone 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.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

April 04, 2024
poonam

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