

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(217)

CRM-M-59189 of 2022 (O&M)
Date of Decision: 16.01.2024

Balwinder Singh @ Tittu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Ashish Pal Kaushal, Advocate, for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

HARPREET KAUR JEEWAN, J.(ORAL)

1. By way of present petition filed under Section 439 Cr.P.C., prayer has been made for regular bail in FIR No.145 dated 12.10.2021 under Sections 376 & 450 IPC, registered at Police Station Arniwala, District Fazilka (Annexure P-1).
2. Counsel for the petitioner *Inter alia* contends that FIR was got registered at the instance of mother of the prosecutrix after 5 days of the alleged offence after due consultations with a view to extract money from the petitioner. The prosecutrix was already married and now living separately from her husband due to the reasons that she could not give birth a child and as such, she was under depression. No offence under Section 376 and 450 IPC is made out against the petitioner as no external or internal injury was found on the person of the prosecutrix and even as per the forensic DNA test report, the DNA of the petitioner did not match with the prosecutrix. The final report has been presented in the Court and there are 21 witnesses cited in the said report.

3. Learned State counsel has opposed the bail petition on the ground of gravity of allegations. Referring to the reply by way of affidavit of Achhru Ram Sharma, DSP, Sub Division, Jalalabad, it is contended that as per the report of the Medical Board, the IQ of the victim is 60 and she is having “Mild Intellectual Disability”.

4. The aforesaid contentions have been considered. The present FIR was registered at the instance of mother of the prosecutrix who has alleged that after the marriage, the prosecutrix was deserted by her husband and for the last 6 years she is living with her parents. On 07.10.2011, the complainant as well as her family members have gone to fields for doing labour work and the prosecutrix was alone at home. The door of the home was locked from the outside. At about 5 p.m. when they came back, her daughter was weeping and on inquiry, she did not tell anything and became depressed and she stopped talking. Ultimately, she told that when she was alone at home on 07.10.2021, the present petitioner-Balwinder Singh alias Tittu who is residing in neighbourhood came to her house by scaling the wall and forcibly committed wrong act with her and thereafter, he fled away. As per the report of the Medical Board (Annexure R-1/T), the victim was found to be physical fit, however, the opinion was given that the patient is mentally unfit suffering from Mild Intellectual Disability and her IQ is 60 as per IQ report received from Guru Gobind Singh College, Faridkot.

5. Keeping in view the fact that the allegations against the petitioner are for sexual abuse of the victim who is mentally challenged, merely on the ground that the petitioner is in custody, he is not entitled to regular bail as the allegations are serious in nature and there are chances of interfering in the prosecution evidence as the petitioner is a neighbourer of the victim.

6. Consequently, the present petition stands dismissed. At present only one witness out of 21 have been examined as such the trial Court is directed to expedite the trial and decide the same preferably within 6 months on receipt of a copy of this order.
7. Pending applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

16.01.2024
anil

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