

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CRM-M-58796-2023

Date of Decision: 21.03.2024

Satpal @ Mala

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Arnav Sood, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 0070 dated 15.08.2023 registered under Section 354 IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Mehtiana, District Hoshiarpur.

The aforesaid FIR was registered on the basis of statement of the victim herself, which is reproduced as under:-

“Statement of xxxxx d/o of Satpal resident of village Bhatrana, PS Mehtiana, District Hoshiarpur aged about 16 years Mobile No: 81464-35483. resident of It is stated that aforementioned address study in class 10+ at village Phalari. We are I am and I School Govt. at three sisters. My mother has expired around 3-4 years ago. My father around is 3:30 a labourer. PM I along On 13.08.2023 at with my younger sister namely Prabhjot Kaur was studying in our room. Then Mala (Uncle) son of Piara Lal resident of village Dhakowal who does work of cable and Televisions came to ur house. Mala uncle used to frequently visit our also house for cable work. On 13.08.2023 uncle came to our house new

and touched touched my receiver of cable. He me wrongly on my to came back and chest and started to hug me. When I pushed him back then he said sorry and told me father. When Kaur came not to reveal anything to my my younger sister Prabhjot out then he pushed me and said that you did not tell me that your younger sister was inside. Mala uncle has touched me wrongly and has tried to do do wrong act with me. He also kissed on my face. When I asked him that uncle why are you doing then he replied that he feels good by doing this. Mala uncle be given punishment. Justice be delivered to me....”

Learned counsel for the petitioner, *inter alia*, submits that the allegations made in the FIR are utterly false and fabricated. It is submitted that at the time of occurrence, the victim was 16-years-old and is like a daughter to the petitioner. Material witnesses i.e. the victim, her sister and father have already been examined by the learned trial Court. Learned counsel for petitioner refers to the testimony of victim recorded as PW-1 by the learned trial Court, wherein she has turned hostile; and further submits that even sister (PW-2) and father (PW-3) of the victim have turned hostile before the trial Court. The petitioner has been in custody since 15.08.2023. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner be released on regular bail.

Pursuant to the advance notice, learned counsel for the State has filed custody certificate dated 20.03.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 07 months and 07 days. As per custody certificate, there is no other case against the petitioner. Learned counsel for the State while vehemently opposing the prayer for grant of bail to the petitioner, submits that the victim in her statement recorded under Section 164 Cr.P.C. has fully supported the case of the prosecution. Learned counsel further

submits that out of total 14 prosecution witnesses, only 03 have been examined, so far.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case; including the custody period undergone by the petitioner and that the perusal of the custody certificate reveals that there is no other case against the petitioner; that the material witnesses already stand examined; as also the fact that 11 prosecution witnesses are yet to be examined, therefore, conclusion of trial will take considerable time, and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.

The petitioner-Satpal @ Mala S/o Piare Lal is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

21.03.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No