



CRM-M-54912 of 2024 (O&M) 1

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

208+106

**CRM-M-54912 of 2024 (O&M)
DATE OF DECISION :- 04.12.2024**

Manohar Masih

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Chandan Singh Rana, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.0086 dated 06.09.2023, registered for the offences punishable under Sections 376/506 of IPC at Police Station Sadar Gurdaspur, District Gurdaspur.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“FIR No. 0086 dated 06.09.2023 U/ss 376/506 IPC P.S. Sadar Gurdaspur, Gurdaspur.

Statement of Rakhal wife of Karan resident of Varsola police station Sadar Gurdaspur age about 25 years Mob: 9780759156. It is stated that I am a resident of the abovementioned address. My date of birth is 04.08.1997 and I am 10+2 pass. My father Jhirmal Lal resident of Wazid Chak performed my marriage with Karan son of Manohar Masih resident of Warsola on 15.11.2022 as per christen rites. On 05.09.2023, my husband



Karan went outside from the house for doing labour work and my mother-in-law Pinder went to Government School for cooking food for children whereas my father-in-law Manohar Masih son of Karnail Masih was present in the house and at about 10:00 A.M, when I was lying on the bed of my room, my father-in-law Manohar Masih came and bolted the door from inside and committed rape with me against my wishes and threatened me that if I dared to disclose this fact to any one, he would kill her. I disclosed the entire incident happened with me to my father Jhirmal Lal. I alongwith my father was going to the police station to report the matter that you me us. Legal action be taken against my father-inlaw Manohar Masih S/O Karnail Masih resident of Warsola. Statement has been heard, correct Rakhal RTI, WITNESS JHIRMAL LAL SON OF BAU RAM RESIDENT OF WAJID CHAK CORRECT -JHIRMAL LAL VERIFIED SEEMA INSP/I/CWOMEN CRIME CELL SUB DIVISION CITY GURDASPUR DATED 6.9.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 08.09.2023. Learned counsel for the petitioner has further argued that the petitioner has been falsely implicated into the FIR in question as the victim/complainant was having a matrimonial dispute with her husband, who is the son of the present petitioner. Learned counsel for the petitioner has further submitted that it is on this account that the husband of the victim/complainant has not been cited as a prosecution witness. Learned counsel for the petitioner has further submitted that all the private prosecution witnesses in the case stand recorded and thus there is no chance of the petitioner interfering with the substantial prosecution evidence. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does

**CRM-M-54912 of 2024 (O&M)** 3

not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 03.12.2024 in Court, which is taken on record.

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

6. The petitioner was arrested on 08.09.2023 whereinafter investigation was carried out and challan stands presented on 05.10.2023. Total 13 prosecution witnesses have been cited out of which 07 have been examined and 03 have been given up. It is thus indubitable that the substantial prosecution evidence has already been led. It is also not in dispute that all the private prosecution witnesses including the victim/complainant stands recorded. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question on account of a matrimonial discord between the complainant/victim and her husband (who is the son of the petitioner) as also the weightage required to be attached to the prosecution not citing the husband of the complainant/victim as a prosecution witness; 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 prosecution evidence.

The petition in hand is the second regular bail petition preferred on behalf of the petitioner. The first petition preferred by the petitioner was dismissed as withdrawn on 22.08.2024 since all the private prosecution witnesses were yet to be examined at that time. Subsequent thereto, all the

**CRM-M-54912 of 2024 (O&M)** **4**

private prosecution witnesses stand examined. Therefore, in the considered opinion of this Court, the factum of all the private prosecution witnesses having been examined and the extended custody of the petitioner since August, 2024 are sufficient grounds to preferably consider the instant petition (second regular bail petition) favourably.

As per custody certificate dated 03.12.2024 filed by learned State counsel, the petitioner has suffered incarceration for a period of 01 year 02 months and 25 days & 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 case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. 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 cell-phone 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/Illaqha Magistrate.



CRM-M-54912 of 2024 (O&M) **5**

(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

04.12.2024
P.Singh

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