

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.60085 of 2023
Date of Decision: 14.03.2024

Surinderpal Singh @ Pali Tamber ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vikas Cuccria, Advocate,
for the petitioner.

Mr. P.S. Bhandari, AAG, Punjab.

MANISHA BATRA, J.(Oral)

1. 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
40	Mahilpur, District Hoshiarpur	376 of IPC

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of complaint lodged by complainant “B” (name withheld) mother of the victim “J” (name withheld) on 02.03.2023, alleging therein that the victim was mentally challenged. From sometime, she was sick and, therefore, was taken by her to Civil Hospital, Mahilpur. Her scan was done and she was found to be seven months’ pregnant. She further recorded that on asking, her daughter had told her that it was the petitioner who had been committing wrong acts with her. After registration of FIR, investigation proceedings were initiated. A child was born to the victim on 07.05.2023. The petitioner was arrested on

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05.10.2023. The statement of the prosecutrix was recorded under Section 164 of Cr.P.C. on 16.11.2023 wherein she recorded that it was the petitioner who had committed wrong with her and had also told her that he would kill her brother if she disclosed about the incident to anyone. Blood samples of the child born to the victim as well as of the petitioner were taken and were sent for DNA profiling at FSL Mohali. After completion of necessary investigation and usual formalities, challan was presented before the trial Court and presently, the petitioner is facing trial for commission of the aforementioned offences.

3. It is submitted by learned counsel for the petitioner that he has been falsely implicated in this case. He is a 60 year old person having good reputation in the village and had been involved in this case only with an intent to extort money and blackmail him. The DNA report has been received as per which he is not the biological father of the child born to victim and this is clearly indicative of the fact that it is not he who had committed any act of ravishing the prosecutrix. It is argued that the trial is likely to take time. His further detention would not serve any useful purpose. The statement of the prosecutrix under Section 164 Cr.P.C. had been recorded after considerable delay, rather after a period of more than one and half months of his arrest and was a result of tutoring of the victim who as per the version of the prosecution itself is a mentally challenged girl. With these broad submissions, it is argued that he deserves to be given benefit of bail.

4. Status report has been filed. As per the DNA report, the petitioner is not the biological father of the child born to the victim who was found to be seven months' pregnant at the time when the matter was reported to the police. It is submitted by learned State counsel that since

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there are serious allegations against the petitioner, therefore, he does not deserve to be given concession of bail.

5. I have heard learned counsel for both the parties at considerable length and have gone through the record.

6. The petitioner is alleged to have ravished the victim who is a mentally challenged girl aged about 20 years. No doubt, it is revealed from her statement as recorded under Section 164 of Cr.P.C. that she had stated that the present petitioner after taking her towards tubewell side in the fields committed wrong act with her and also threatened her but it cannot be ignored that her statement was recorded after a gap of about eight months from the date of lodging of the FIR and one and half months after the arrest of the present petitioner. The DNA report also does not show him to be biological father of the child born to the victim after lodging of the FIR. The trial is likely to take time. Keeping in view the entire facts and circumstances of the case but without meaning to make any comment on the merits of the case, I am inclined to hold that it is a fit case where the petitioner deserves to be given concession of bail. Hence, the petition is allowed and he is ordered to be admitted to bail subject to his furnishing personal/surety bonds to the satisfaction of learned trial Court.

14.03.2024
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(MANISHA BATRA)
JUDGE

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