



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

259

CRM-M-60713-2023

Date of decision:05.08.2024

Ajay Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Amit Arora, Advocate for the petitioner.

Mr. Anup Singh AAG Punjab.

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.48 dated 23.06.2023, registered for the offences punishable under Sections 376 of IPC and Section 4 of POCSO (Section 376(G)-2 of IPC and Section 6 of POCSO Act added later on and offence under Section 4 of POCSO stands deleted) at Police Station Chohla Sahib, District Tarn Taran.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Statement of Harjit Kaur wife of Lakhbir @ Labba Singh resident of village Pathal Bhaike, Chohla Sahib, aged about 37 years, Mobile NO.7690613541. It is stated that I am resident of above mentioned address and used to do household work at Tarn Taran. I am having 5 children out of whom the eldest is my daughter Sharanjit Kaur aged about 13 years 6 months and younger to her is Mamta aged 11 years, Anita is aged 10 years and younger to them is my son Inderjit Singh aged 5 years and youngest is my daughter Jasanpreet Kaur. My husband is used to do the work of pulling rikshaw. My daughter Sharanjit Kaur has studied upto 4th class in the school of the village. On dated 18.06.2023 I have gone to Tarn Taran city for doing work and when I came back then my daughter Shranjit Kaur was not available in the house. We tried to locate her in the



houses of our relatives we cannot trace her and yesterday she herself came back to our house and was feeling restlessness and she disclosed to us that she has been taken away by Gurjant Singh son of Balwinder Singh, resident of village Mohanpura in his autorikshaw near the Amritsar Bustand where Ajay Singh son of Hardev Singh, resident of village Malian Tarn Taran met them and took me in some hotel near Darbar Sahib where they kept on committing rape upon me forcibly. This kept on going for 4 days and thereafter yesterday I somehow after getting myself saved from them ran away. Since my daughter was restless yesterday as such she disclosed this entire incident to me and today I along with my daughter Sharnjit Kaur and my brother-in-law Jasbir Singh son of Gurdeep Singh, resident of Nanak Nagri Kotakpura has come to the police station Chohla Sahib, thus, the strict legal action may kindly be taken against the aforesaid accused persons. RTI Harjit Kaur, ”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 23.06.2023. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that the PW-1 Harjit Kaur (mother of the victim and complainant of the FIR) as also PW-2 (victim) are not coming forward for their cross-examination which factum is decipherable from orders dated 15.03.2024, 05.04.2024, 26.04.2024, 10.05.2024, 31.05.2024, 11.07.2024 as also 01.08.2024 passed by the trial Court. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 04.08.2024 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 23.06.2023 whereinafter investigation was carried out and challan stands presented on 19.08.2023. Total 15 prosecution witnesses have been cited and culmination of the trial will likely to take its own time. It is clear from the perusal of the zimni orders dated 15.03.2024, 05.04.2024, 26.04.2024, 10.05.2024, 31.05.2024, 11.07.2024 as also 01.08.2024 passed by the trial Court that the cross-examination of the PW-1 Harjit Kaur (mother of the victim and complainant of the FIR) as also PW-2 (victim) is not being recorded and the folly therefor cannot be fasten upon the petitioner (herein). The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question; 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. As per custody certificate dated 04.08.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 01 year and 01 month & 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 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

August 05, 2024
Ajay