

316 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-60958-2023
Date of decision: 16th January, 2024

Jinder Khan

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Gaurav Singla, Advocate for the petitioner.
Mr. R.S. Khaira, DAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
114	15.6.2023	Lehra, District Sangrur	376(2) (n)/ 506 IPC, 1860

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 15.06.2022 on the basis of statement recorded by victim ‘S’ (name withheld) alleging therein that she had performed second marriage with ‘R’ (name withheld). He was a person of low mental intellect. She alleged that the petitioner who is her father-in-law had committed rape upon her on 14.06.2022, while finding her alone in the house and also alleged that previously also she had been ravished by

him. She was taken to the hospital by her relatives and medically examined. The petitioner was apprehended and arrested on 10.08.2022. After completion of necessary investigation and usual formalities, challan was presented against the petitioner and presently, he is facing trial for commission of offences punishable under Sections 376 and 506 of IPC, 1860. He had filed an application for grant of regular bail before the learned trial Court which has been dismissed vide order dated 05.09.2022.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. Infact, the victim herself is a female of questionable character and was having extra marital affairs. Her first husband had committed suicide due to that very reason on 17.07.2018. Her marriage was performed with her brother-in-law Sultan but the same also stood dissolved on 05.12.2020. The factum of her second marriage was concealed by her at the time of performing marriage with the son of the petitioner. While saying that due to the fact that the son the of the petitioner is not of normal intellect, he has argued that it is the prosecutrix who has been developing illicit relations with others. Even her brother has sworn an affidavit in favour of the petitioner to the effect that she has falsely implicated the petitioner. It is submitted that the trial is likely to take time. No marks of external injuries were found on the person of the prosecutrix. Neither any FSL report has come against him. Hence, it is argued that he deserves to be given concession of bail.

4. The petition has been resisted by learned State counsel in terms

of the status report. It is submitted therein and learned State counsel has argued that there are serious specific and grave allegations against the petitioner. The FSL report has been received which shows that human semen and male DNA detected on the vaginal swabs of the victim has matched with the DNA profiling of the petitioner. The trial is being expedited. The statement of the victim has already been recorded. Rather all PWs have been examined and the case is at the stage of producing defence evidence. As such, there is not going to be any delay in conclusion of the trial. With these broads arguments, he has urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have gone through the record.

6. The petitioner is alleged to have ravished the victim as on 14.06.2022 and previously also. The semen detected on the vaginal swabs of the victim has matched with the DNA of the present petitioner as per the FSL report. The prosecution evidence also stands concluded and the trial is at fag end. Keeping in view, the nature of the allegations that have been levelled against the petitioner, the quantum of sentence which the conviction may entail, the fact that in her sworn deposition the petitioner has supported the prosecution version and nothing has been brought on record to show to the contrary coupled with the fact that the affidavit which is alleged to have been sworn by brother of the victim in favour of the petitioner cannot be looked into by this Court and it is for the trial Court to consider the veracity of the same if it is produced in the evidence, I find no reason to allow the petition.

7. Accordingly, the petition is dismissed.
8. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
9. Since the main petition has been disposed of, pending application if any is rendered infructuous.

[MANISHA BATRA]

JUDGE

16th January, 2024

Parveen Sharma

1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No