

CRM-M-62279-2023
Date of decision: 16th February, 2024

...Petitioner(s)

...Respondent(s)

Present: Mr. Kanwaljit Singh Senior Advocate with
Mr. Robin Gill, Advocate for the petitioner.
Mr. Monish Bansal, P.P., U.T., Chandigarh.

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
155	04.09.2023	Central Sector 17, Chandigarh	323, 354, 354A, 354B of Indian Penal Code, 1860 (for short 'IPC')

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of statement of complainant 'S' (name withheld) on 04.09.2023, alleging therein that in the morning of the same day, she was coming back towards her paying guest accommodation wherein she stayed with one Harshita. She had gone to a club with her friends and since the keys of her room were with

her, her roommate Arshita called her on phone. When she was near her paying guest accommodation, her roommate pleaded to help her as she was with some boy in a car and the said boy who was infact, the petitioner was not letting her go. With an intention to help her friend/roommate, the complainant took her cell phone and bag from Arshita but the petitioner felt offended and he started giving abuses to the complainant. Then he came out of the car and opened an assault upon her. She had reached at the spot in a car wherein her three friends namely Niyati, Mriganshi and Harjinder were present. She tried to rescue herself and boarded in that car but the petitioner by that time had become so aggressive that he grabbed her, tried to outrage her modesty by touching her breast, tearing of her clothing and even extended beatings to her. She tried to rescue herself but he violently attacked again. In the meanwhile, he also called some friends who too started abusing them and attacking upon her. Her whole clothes were torn. She even called the police but was somehow saved. Even her roommate joined the petitioner in attacking her and therefore she prayed for taking action against the assailants. On the basis of her complaint and after lodging of FIR, she was sent for her medico legal examination, as per which, she had suffered a contusion over her left thigh and her breath was smelling of alcohol. She, however, refused to get her blood and urine tests done. The petitioner was formally arrested and apprehended on 04.09.2023. After completion of investigation and usual formalities, challan under Section 173 Cr.P.C. was presented in the Court and presently he is facing trial for commission of the aforementioned offences.

3. The petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. He is in custody since 04.09.2023. His custodial interrogation is not required. The trial is likely to take time. The eye-witnesses Harjinder Singh and 'Mriganshi' had sworn affidavits (Annexure P-6 and P-7) to the effect that only a scuffle had taken place between the petitioner and the victim on the fateful day. It is argued that no useful purpose would be served by keeping him in custody anymore. The victim had suffered only simple injury and the allegation that she had been brutally attacked have been found to be false. He has no criminal antecedents. Therefore, 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, as per which, the allegations against the petitioner were serious in nature. Learned State counsel has therefore, argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The petitioner is alleged to have opened an attack upon the victim in the evening of 04.09.2023, is further alleged to have outraged her modesty and sexually harassed her. He is in custody since 04.09.2023. Investigation has now been completed and challan stands presented. Trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. Though the petitioner has relied upon affidavit Annexures

P-6 and P-7 stated to have been sworn by the friends of the victim herself to the effect that on the fateful day only a verbal spat had taken place between the parties and no incident of tearing of the clothing of the victim had taken place, but in my opinion, the contents of these affidavits cannot be looked into at this stage and it is a matter to be decided by the trial Court as to whether these affidavit have actually been sworn by the witnesses or not? However, still keeping in view the period of incarceration of the petitioner, the nature of the subject offences and the attendant facts and circumstances of the case, I am of the considered opinion that the petition deserves to be allowed. Hence, the petition is allowed, the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

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

[MANISHA BATRA]

JUDGE

16th February, 2024

Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No