

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217

CRM-M-62038-2023
Date of Decision: 01.03.2024

TARSEM SINGH ALIAS SEMAPETITIONER

Versus

STATE OF PUNJAB ...RESPONDENT

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Riffi Birla, Advocate for the petitioner.
Mr. Madhur Sharma, DAG, 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.	Dated	Police Station	Sections
71	28.09.2023	Sadiq, District Faridkot	376-D and 365 of IPC

2. Brief facts relevant to this petition are that the aforementioned
FIR was registered on 28.09.2022 on the basis of statement recorded by the
complainant “J” (name withheld) alleging therein that she was a married
women having two children. On 26.09.2022 at about 5:15 PM, she had been
going towards the village doctor for taking some medicine and when she was
a few steps away from doctor’s clinic, two persons having muffled faces
intercepted her. They tied her face with some cloth and took her to some un-
identified place wherein she was ravished by them turn by turn. Subsequently,
she came to know that one of the ravishers was the present petitioner Tarsem
Singh @ Sema and other one was Satta Singh. She alleged that after ravishing

service shop and managed to reach home. On the basis of her statement, the aforementioned case was registered and investigation proceedings were initiated. The victim was medically examined and her statement under Section 164 Cr.P.C was also recorded, wherein she reiterated the allegations as leveled in the FIR. The present petitioner was apprehended and arrested on 30.09.2022. The co-accused was also arrested. Both the petitioner as well as co-accused were medically examined. After completion of necessity investigation and usual formalities, challan was presented in the Court and presently the petitioner along with co-accused is facing trial for commission of offences punishable under Sections 376-D and 365 of IPC.

3. The present petition has been filed by the petitioner on the ground and it is argued by his counsel that he has falsely been implicated in this case. No injuries were found on the person of the prosecutrix on conducting her medico legal examination. The MLR does not show that there was any penetration or complete penetration. The prosecutrix had sworn an affidavit on 01.05.2023 in favour of the petitioner and co-accused affirming that she had involved the present petitioners in the case under the pressure of her family and that they had not done anything against her. The custodial interrogation of the petitioner is no more required. The trial is likely to take time. Learned counsel for the petitioner has also drawn attention of this Court towards Annexure P-4, which is an inquiry report shown to be submitted by some Police Officer, Police Station Sadik, District Faridkot on 18.05.2023 against the prosecutrix on the basis of some application stated to have been filed by her husband. With these submissions, it is argued that petition deserves to be allowed and petitioner deserves to be extended benefit of grant of regular bail.

4. Status report has been filed by the respondent-State and the same is taken on record. Learned State counsel has argued that there are serious and specific allegations against the petitioners. The victim had reiterated the allegations not only in her statement recorded under Section 164 of Cr.P.C but also in her sworn deposition which has been recorded in the Court. The DNA report shows that the human semen detected on the Salwar of prosecutrix matched with DNA profiling of the petitioner as well as the co-accused which was clear proof of the fact that the victim was ravished/gang raped by them. Therefore, it is argued by him 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 given due deliberations to the contentions raised by them.

6. The allegations against the petitioner are that he along with the co-accused had abducted the victim on 26.09.2022 and had committed gang rape upon her. The prosecutrix in her statement recorded under Section 164 of Cr.P.C the present petitioner and co-accused as the persons who had defiled her. Even in her sworn deposition, she is stated to have deposed against the petitioner. Though, learned counsel for the petitioner has relied upon an affidavit alleged to have been sworn by the prosecutrix on 01.05.2023 stating that she had exonerated the petitioner and the co-accused from the allegations as leveled in the FIR and the same was registered by her under the pressure of her family members as well as Annexure P-4, an inquiry report stating that the prosecutrix had firstly implicated the petitioner and then informed her husband that she had compromised with him, but no consideration can be given to these documents, at this stage. The fact that DNA of the semen

detected on the clothing of the prosecutrix has matched with the DNA blood profiling of petitioner negates the contention that the medico legal report did not show that there was any attempted or complete penetration.

10. Keeping in view of nature of the allegations as leveled against the petitioner, the quantum of sentence which the conviction may entail and attendant facts and circumstances, I am of the considered opinion that the petitioner does not deserve to be given grant of regular bail. Accordingly, the petition stands dismissed.

01.03.2024

pry

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No