

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

211

Criminal Misc. No. M-63343 of 2023

Date of decision :-14.02.2024

Rajiv Kumar @ Rajeev Kumar @ Sunny

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rimple Saini, Advocate
for the petitioner.

Mr. Sukhaandesh Singh Chahal, AAG, Punjab.

NIDHI GUPTA J. (Oral)

Prayer in this first petition filed under Section 439 Cr.P.C.
is for grant of regular bail to the petitioner during pendency of the trial
in case FIR No.102 dated 08.4.2023, under Section 315 IPC (Section
314 IPC added later on), registered at Police Station Sadar, Amritsar,
District Police Commissionerate, Amritsar.

The FIR in the present case was registered on the basis of
the statement of the victim herself, which reads as follows :-

*“It is stated that I am resident of above mentioned
address. My sister Kajal W/o Raman Kumar is
married at resident of Dina Nagar village Rampur
District Gurdaspur. I have relationship since 2
years with brother-in-law (Devar) Sunny of my
sister Kajal. Their family was also aware that we
are in relationship and their family was also aware
that I have child in my pregnancy of their son.*

Before 5 days I have called him over phone and he used to say that I am coming after arrangement of money. But he has not come. I was suffering pain since three days. Then my urine has stopped. After that, before three days I have come at Guru Nanak Dev Hospital and they have installed urine pipe to me and then I have come at home. The brother-in-law (Devar) of my sister had given to me a kit to eat but from it, the child has not died and his mother Saroj has asked to him that I shall perform your marriage, but I shall disown to you from family. Today my family members have got me admitted at Bebe Nanki Hospital, Majitha Road, Amritsar and during the treatment there was delivery at me of dead child. That this child in my pregnancy was of above mentioned Sunny. That the child which has died in my pregnancy, Sunny is responsible for it. The necessary legal action be initiated. I have heard the statement, and it is correct.”

Learned counsel for the petitioner *inter alia* submits that the allegations made in the FIR are totally false and fabricated, which is borne out from the admissions made in para 7 of the status report dated 01.2.2024 filed by way of affidavit of Varinder Singh Khosa, PPS, Assistant Commissioner of Police (North) Amritsar City, which reads as follows :-

“7. That a DNA Test Report No.DNA/2023/381/381-A/FSL/PB/Exam/dated 19.01.2024 issued by the Forensic Science Laboratory, SAS Nagar, Punjab has been received. The conclusion given by the Assistant Director (Serology) is reproduced for the kind perusal of this Hon’ble Court as under :-

‘The DNA profile of Rajeev Kumar (Source:Exhibit A) is not consistent as of being the biological father of fetus of Komal (Source: Exhibit B).’

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the matter and prays that he may be released on regular bail.

Notice of motion.

Mr. Sukhsandesh Singh Chahal, AAG, Punjab accepts notice on behalf of respondent-State and filed the custody certificate dated 13.2.2024. The same is taken on record. Copy thereof is supplied to the counsel opposite.

As per the custody certificate, the petitioner has undergone custody as under-trial for a period of 10 months and 08 days. Learned State counsel submits that the charges before the learned trial Court were framed on 26.2.2024 and out of total 22 prosecution witnesses, none have been examined so far.

I have heard learned counsel for the parties and gone through the case file carefully.

Without commenting on the merits of the case, however, keeping in view the totality of facts and circumstances of the case, including the fact that the trial of the case is likely to consume considerable time as out of total 22 prosecution witnesses, none has been examined so far; and keeping in view the custodial period of the petitioner; and the fact that there is no other case pending against him, his further custody may not be justified; and without meaning any expression of opinion on the merits of the case, it is ordered that the

petitioner-Rajiv Kumar @ Rajeev Kumar @ Sunny s/o Jang Bahadur
be released on regular bail subject to his furnishing requisite bail
bonds/surety bonds to the satisfaction of the trial Court/Duty
Magistrate, concerned.

The petition is allowed.

February 14, 2024
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No
Whether Reportable Yes / No