

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-63490-2023
Date of decision: 28th February, 2024

Hardeep Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. S.S. Sarwana, Advocate for the petitioner.
Mr. A.S. Samra, AAG, 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
111	16.05.2023	Kotwali, Patiala	376 of Indian Penal Code, 1860 (for short ‘IPC’) and Sections 4 and 8 of POCSO Act, 2012

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was lodged on 16.05.2023 on the basis of written statement filed by the complainant (name withheld) alleging therein that she had three daughters and one son. The delivery of her sister-in-law i.e. her brother’s wife had to take place and for this purpose, she alongwith the prosecutrix who is her daughter studying in 8th Class and other children had gone to her brother’s house. On 31.12.2022, she

alongwith her sister-in-law and brother had gone to hospital to get her sister-in-law admitted for the purpose of delivery. A male child was born to her sister-in-law and she stayed with her for two days. On 31.12.2022, i.e. before her leaving for the hospital, her sister Nita alongwith her husband Hardeep Singh-petitioner had also come to the house of her brother and had stayed there while she was in hospital with her sister-in-law. She alleged that when she came back from the hospital she found her daughter i.e. prosecutrix in a scared condition. She asked her the reason but her daughter did not tell her anything. When she came back to her house, it was only then the prosecutrix told her that the petitioner had committed rape upon her on the night of 31.12.2022 and had extended threats to kill her if she disclosed about the incident to anybody. The complainant thereafter reported about the incident to her father who had called the petitioner but instead of apologizing, while admitting his guilt, he proclaimed that the complainant could do whatever she wanted. After registration of the FIR, investigation proceedings were commenced. The victim was medically examined. Her statement under Section 164 of Cr.P.C. was also recorded. The petitioner was arrested on 17.05.2023. He was also medically examined. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for the commission of the aforementioned offences. He had moved an application for grant of bail before the learned trial Court which has been dismissed vide order dated 16.11.2023.

3. The present 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. There is delay of five months in reporting the matter to the police and no explanation has come forward for that purpose. He is in custody since 17.05.2023. The victim has since been examined. Therefore, there is no question of his intimidating her. Trial is likely to take time. No useful purpose would be served by detaining him further in custody. 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. It is submitted therein that the prosecutrix is a minor girl. Though presence of human semen could not be confirmed on the anal swabs and no male DNA profile was recovered to ascertain the genetic contribution of the petitioner on the anal part of the prosecutrix, wherein the petitioner was alleged to have done the act of penetrative sexual assault, however, the allegations against him were quite serious in nature. In her sworn statement, recorded before the Court, the prosecutrix had duly supported the prosecution version. Trial is going on at a right pace and there is nothing to show that there would be any undue delay in conclusion of the trial. Therefore, it is 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 who is maternal uncle (*masad*) of the prosecutrix is alleged to have done the act of penetrative sexual assault by inserting his penis into the anal part of the victim and by molesting her on the night of

31.12.2022, when she was sleeping in the house of her maternal uncle and her mother and maternal uncle etc, were in the hospital. There are specific and serious allegations against the petitioner. The victim in her sworn deposition as well as in statement recorded under Section 164 of Cr.P.C. has also supported the prosecution version. There is nothing on record to show that there would be any undue delay in conclusion of the trial. Keeping in view the nature of allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner does not deserve to be extended benefit of bail. Hence, the petition is dismissed.

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 petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

28th February, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No