

223 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65349-2023
Date of decision: 10.01.2024

ALI SAIN @ RANU

.....Petitioner

versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Ms. G.K. Mann, Sr. Advocate with
Ms. Komal Balain, Advocate
for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab.

HARPREET KAUR JEEWAN, J. (ORAL)

1. Present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case FIR No.63 dated 22.04.2023 under Sections 342, 366, 376-D, 506 and 201 IPC (Section 4 of POCSO Act, 2012 added later on), registered at Police Station Sarhali, District Tarn Taran.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and later on, offence under Section 4 of the POCSO Act was also added. The complainant was major and consenting party at the time of the said occurrence. However, when she was questioned by her family, she lodged a false FIR against the petitioner. Later on, she did not support the version of the prosecution, when she appeared as a witness. Even the parents of the prosecutrix-complainant did not support the prosecution case, which is evident from their statements (Annexure P-1 to P-3). Challan has already been presented. Final report under Section 173 Cr.P.C. has been presented before the trial Court and the statements of all the material witnesses have already

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I attest to the accuracy and
integrity of this order/judgment.

been recorded (Annexures P-1 to P-3). It is further contended that after registration

of the FIR, the petitioner refused for her medical examination and this fact has also been mentioned in the final report under Section 173 Cr.P.C.

3. Learned State counsel has confirmed that challan in the present case has already been presented. All the material witnesses, including the prosecutrix, have been examined. However, the bail application was opposed on the ground that the petitioner would interfere in the prosecution evidence in case he is released on regular bail.

4. I have considered the aforesaid contentions. The present case was registered at the instance of the prosecutrix with the allegations that on 18.04.2023, at about 10:00 PM, she along with her family members went to sleep after having dinner. She is residing along with her family members on one side of the drain in a *dera* whereas, the petitioner is residing on the other side of the drain. On the day of occurrence, the petitioner took the prosecutrix forcibly in his Swift car. He came along with 2-3 unidentified persons and thereafter, the petitioner committed rape upon her without her consent.

5. The statement of father of the prosecutrix has been recorded as PW-1 (Annexure P-1), statement of the prosecutrix has been recorded as PW-2 (Annexure P-2) and statement of mother of the prosecutrix has been recorded as PW-3 (Annexure P-3). None have supported the prosecution case and no medical examination was conducted as the prosecutrix did not agree for her medical examination.

6. Without commenting on the merits of the case, but keeping in view the fact that investigation is already complete; challan has already been presented; the trial is going to take considerable time as the official witnesses are yet to be examined; the testimony of the material witnesses including the prosecutrix has already been recorded; and at this stage, no useful purpose will be served by

keeping the petitioner in custody, the petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court.

7. All the pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

10.01.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No