



103+221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-49988-2024 in/and
CRM-M-62416-2024
Date of decision: 17.12.2024

CHARANJIT SINGH @ DHILLON

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikasdeep Singh, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

CRM-49988-2024

1. This is an application filed under Section 482 Cr.P.C. for amendment in the head note as well as prayer clause of the petition by adding offence under Section 315 IPC.
2. Learned counsel for the applicant/petitioner submits that inadvertently, offence under Section 315 IPC was not mentioned in the head note as well as prayer clause, which was added subsequently on framing of the amended charge by learned trial Court.
3. For the aforementioned reasons, the application is allowed.
4. Offence under Section 315 IPC is ordered to be added in the head note as well as prayer clause of the petition. Registry is directed to make the necessary changes.

MAIN CASE

1. This is the first petition filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita (BNSS) for grant of regular bail to the petitioner in



**CRM-49988-2024 in/and
CRM-M-62416-2024**

2

case bearing FIR No.34 dated 09.02.2024 registered under Sections 376/506 of Indian Penal Code at Police Station Sultanpur Lodhi, District Kapurthala (Annexure P-1).

2. Brief facts of the case are that FIR (*supra*) was lodged against petitioner-Charanjit Singh & his co accused Ravi under Sections 376, 506 of IPC on the statement of prosecutrix on the allegations that petitioner-Charanjit Singh ex-sarpanch used to visit their home and she used to go with him in his car to his house to do domestic work. Petitioner also used to visit her house to see her brother and provide him medical treatment as her brother had met with an accident and has suffered multiple injuries. Petitioner also used to visit the house of her uncle (*chacha*) and used to make fun and eve tease with his daughters. When she was about 18 years old then the petitioner forcibly developed physical relation with her, without her wish and consent, in the bedroom of his house. Thereafter, in the absence of her mother, petitioner used to call the prosecutrix in his house, to do cleaning work. He used to develop forcible physical relation with her within an interval of 20/25 days. When she was aged about 18 years, due to wrong physical relations developed by the petitioner with her, she missed her menstruation cycle for three months. She told about the same to the petitioner and he gave her one pill to eat and also advised her to have Kahva (soup) etc. due to which, she got severe bleeding with flesh. Even thereafter, the petitioner did not stopped developing forcible physical relations with her. He used to take the prosecutrix along with her cousin to wander near the bank of river and thereafter, he used to eve tease her. Her mother many times stopped the petitioner from taking the girls with him as her mother was aware that petitioner-Charanjit Singh was not man of good



CRM-49988-2024 in/and
CRM-M-62416-2024

3

vices. Petitioner even now from the last about 7/8 months has been developing forcible physical relations with the prosecutrix, without her consent and she missed her menstruation cycle for the last about 7-8 months. In the month of November, petitioner again developed forcible physical relation with her and she got stomach pain about which, she disclosed this fact to him but he asked her not to disclose about the same to anyone. In the month of September, Ravi who is son of her uncle (*Chacha*) also forcibly developed physical relations with the prosecutrix, without her wish and consent. He did so twice. In the end of November, 2023 she disclosed about her pregnancy to the petitioner. In the middle of December 2023, petitioner came to her house and gave Rs.10,000/- to her mother and asked her to get the pregnancy of victim terminated from some doctor. He also threatened her and her mother that if they disclosed about the same to anyone he will eliminate members of her family. In last days of January 2024 at about 9-10 a.m. she had pain in her stomach upon which, her mother and Aunt Kulwinder Kaur called Dr. Nirmal who gave her injection. The doctor also advised for a C.T. Scan. When she went to bathroom and sit there to urinate, the infant dropped from her body on the floor. Her mother and aunt also came to the bathroom. Her mother when checked the infant it was a baby girl born dead. Her mother wrapped the body of baby girl child in a cloth and threw it in the village pond. It is further alleged that petitioner-Charanjit Singh and co-accused-Ravi by taking undue advantage of the poor financial capacity of the family have sexually violated the prosecutrix and had made her unmarried mother.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case and this Court vide



CRM-49988-2024 in/and
CRM-M-62416-2024

4

order dated 14.03.2024, directed that test of the petitioner be conducted under the supervision of PGIMER, Chandigarh and the DNA report is negative qua the complicity of the petitioner. Learned counsel has produced the photocopy of the deposition of the prosecutrix as PW-1, who has been examined by learned trial Court on 13.12.2024 and submits that she has not supported the case of the prosecution and has been declared hostile by learned Public Prosecutor. Learned counsel further submits that the petitioner is behind the bars since 09.02.2024 and till date, only one prosecution witness has been examined.

4. Learned State counsel produces the custody certificate, which are taken on record and *per contra*, opposes the prayer of the petitioner on the ground that there are serious and specific allegations against the petitioner, however, he could not controvert the facts that the prosecutrix has already been examined as PW-1 and the petitioner is not involved in any other case.

5. A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting



CRM-49988-2024 in/and
CRM-M-62416-2024

in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind the bars since 10.02.2024 and has undergone a period of 10 months and 06 days as on 16.12.2024 and is not involved in any other case. The investigating agency has already concluded the investigation and has submitted the final report under Section 173 Cr.P.C. The trial of the case is likely to take long time as out of 17 witnesses cited by the prosecution, only 01 has been examined so far. Further incarceration of the petitioner, without there being the prospect of the conclusion of the trial, in the near future, would be violative of his rights under Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

7. In view of the above, the present petition is allowed and the petitioner-Charanjit Singh *alias* Dhillon is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

8. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

(HARPREET SINGH BRAR)
JUDGE

December 17, 2024
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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |