

PBGD010071812023



Presented on : 05-09-2023

Registered on : 06-09-2023

Decided on : 11.09.2023

**IN THE COURT OF SH. AJIT PAL SINGH
ADDITIONAL SESSIONS JUDGE, Gurdaspur.**

Unique Identification Code No. (PB0226)

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Bail Application no. 472 of 06.09.2023

Date of order: 11.09.2023

Kulwant Singh @ Laddu son of Iqbal Singh resident of village Jhanda
Lubhana, P.S. Bhaini Mian Khan, Tehsil and District Gurdaspur.

---Accused/applicant

Versus

State of Punjab.

FIR No. 0036 of 13.05.2022

U/ss 376 IPC and 3,4,6 POCSO Act

P.S. Bhaini Mian Khan

3rd APPLICATION FOR Bail U/S 439 CR.P.C

Present: Sh. Manoj Loomba Adv. Counsel for accused/applicant.
Sh. Hardeep Kumar, Addl.P.P for the State.

ORDER

1. This order of mine shall dispose off bail application moved under Section 439 Cr.P.C on behalf of accused/applicant Kulwant Singh @ Laddu for releasing them on bail in aforementioned FIR.

2. Notice of bail application was given to State, consequent upon which learned APP for the State has put in appearance. Record has been perused.

3. In brief, prosecution story is that present case was registered on the statement of Paramjit Singh son of Bachan Singh to the effect that he is a labourer. He has three children i.e. two daughters and one son. His elder daughter/prosecutrix was aged about 15 years. She is deaf and dumb from the birth and due to this reason, she left her study from 5th standard and used to live in the house. Their neighbourer Kulwant Singh @ Ladu son of Iqbal Singh resident of village Jhanda Lubana used to harass his daughter/prosecutrix and used to do obscene acts with her. They tried to make him understand in the Panchayat, but he did not mend his way. On 13.05.2022, he went for labour and at about 11:30 AM, he came back to home for drinking tea. He saw that his mother was sleeping in the home and his wife went to the house of neighborer. When he tried to trace his daughter/prosecutrix, but she could not find her in the home. Due to previous conduct of Kulwant Singh @ Ladu, he went to his Havli and his mother Ravail Kaur also came behind him. The door of the Havli of the Kulwant Singh @ Laddu was closed and noise of crying was coming from inside the Havli. He alongwith his mother opened the door by pushing and saw that Kulwant Singh @ Laddu was committing rape upon his daughter forcibly and his daughter/prosecutrix was crying. On seeing them, Kulwant Singh @ Laddu fled away from the spot. On the basis of said statement, present case was registered.

4. I have heard the learned counsel for accused-applicant, learned Additional PP for the State and have also perused the record very

minutely with their able assistance.

5. Learned counsel for accused-applicant has argued that accused-applicant is innocent and has been falsely implicated in the present case. It has further been submitted that the earlier bail applications of the accused-applicant had already been dismissed as the Challan was not presented and the main witnesses were not examined. It has further been submitted that now the star witness of the prosecution namely Paramjit Singh and his mother have been examined and both have not supported the version of the prosecution and prosecutrix has also not stated anything against the accused-applicant. The accused-applicant is in judicial custody since 13.05.2022 and no useful purpose will be served keeping him in custody as conclusion of trial will take long time and nothing is to be recovered from accused-applicant and he is ready to abide by all the terms and conditions as imposed upon him. Finally prayer for allowing the bail application has been made.

6. Per contra, in stark retaliation to the arguments put forth by learned counsel for accused-applicants, learned APP for the State vehemently opposed the contentions so put forth by learned counsel for accused/applicant and stated that serious allegations have been levelled against the present accused-applicant and in case, he is granted bail, he might try to hamper the process of trial and might also try to influence the prosecution witnesses and hence, he does not deserve the leniency of the Court in grant of relief of bail and finally he prayed for its

dismissal.

7. After hearing rival contentions of both the parties and perusing the record, it transpires that the allegations against the present accused-applicant are that he forcibly committed rape/ penetrative sexual assault upon the minor prosecutrix in his Havli, who is stated to be deaf and dumb. However, perusal of record reveals that challan has already been presented and trial has commenced and star witnesses had already been examined. The star witnesses of the prosecution had not attributed any allegations to the present accused-applicant. Further The medical report has already been received, which reveals that human semen was detected on the vaginal swabs of the prosecutrix. More so, the prosecution has examined PW7 Dr. Manjinderjeet Kaur, who stated in her statement that human semen was not detected on the vaginal swabs of the prosecutrix. The prosecutrix who is deaf and dumb could neither get recorded her statement under Section 164 Cr.PC nor she could depose anything in her examination in chief, even with the help of the Special Educated/Expert. Further, the perusal of file further reveals that accused-applicant is in judicial custody since 13.05.2022 and nothing is to recovered from him. So in the light of aforementioned circumstances, this court is of the opinion that no useful purpose will be served by detaining the accused/applicant behind bar for indefinite period as conclusion of trial will take its time and hence without delving into the merits of the main case, bail application of the accused/applicant is allowed and

accused/applicant is ordered to be released on his furnishing bail bonds in the sum of Rs. 1,00,000/- with one surety of the like amount and subject to the following conditions:-

1. That accused/applicant will attend the court on each and every date of hearing.
2. That the accused/applicant will not induce or threaten to the prosecution witnesses and will not tamper with evidence of prosecution in any manner.
3. That accused/applicant will not leave country without the prior permission of the trial court.

8. Although, this bail application is allowed, but it is made clear that nothing as expressed in the said order shall have any bearing on the merits of the main case. The bail application stands disposed off. Papers of bail application be tagged with the main file.

Pronounced in the open Court
Dated: 11.09.2023
Dilbag Singh, Steno-II

(Ajit Pal Singh)
Addl. Sessions Judge,
Gurdaspur. UID no. PB0226