

(2010) 11 P&H CK 0572**High Court Of Punjab And Haryana At Chandigarh****Case No:** CRM No. M-32083 of 2010

Kulbir Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Nov. 2, 2010**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 439
- Penal Code, 1860 (IPC) - Section 342, 363, 376, 506
- Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Section 3

Citation: (2010) 11 P&H CK 0572**Hon'ble Judges:** Mehinder Singh Sullar, J**Bench:** Single Bench**Final Decision:** Dismissed

Judgement

Mehinder Singh Sullar, J.

Invoking the provisions of Section 439 Code of Criminal Procedure, Petitioner Kulbir Singh son of Nirmal Singh-main accused, has instituted the present petition for regular bail in a case registered against him, by virtue of FIR No. 103 dated 13.10.2007 on accusation of having committed the offences punishable under Sections 342, 363, 376 and 506 IPC and Section 3(i) and (ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act by the police of Police Station Banur, Distt. Patiala.

2. Concisely, the prosecution, inter-alia, claimed that the prosecutrix is minor and was studying in 8th standard at the relevant time of occurrence. On the night intervening of 11/12.10.2007, the prosecutrix was sleeping in her house. At about 12.30 A.M., the Petitioner-accused came to her house, called her forcefully, made her to sit on his motorcycle and took her to his tubewell, situated in the fields. He committed rape against her consent and kept her concealed there in illegal detention. On the next day, the Petitioner took the prosecutrix to his sugarcane fields, forcibly made her to sit there and

threatened her not to come out till he returns, but the prosecutrix slipped from the sugarcane fields from his clutches and reached her house. She narrated the entire incident to her parents, who got her admitted in Civil Hospital, Banur.

3. Levelling a variety of allegations and narrating the sequence of events, in all, according to the prosecution that the Petitioner illegally detained and forcibly committed rape with the prosecutrix without her consent, who was minor and was studying in 8th class. On the basis of aforesaid allegations and in the wake of statement of the prosecutrix, the present case was registered against the Petitioner-accused, in the manner indicated here-in-above.

4. Having heard the learned Counsel for the Petitioner, having gone through the record with his valuable assistance and after bestowal of thoughts over the entire matter, to my mind, there is no merit in the instant petition.

5. Ex-facie, the celebrated arguments of learned Counsel that the Petitioner has been falsely implicated in the present case, the story of the prosecution is highly improbable and since there are some contradictions in the statement of the prosecutrix, relatable to medical evidence, so, he (Petitioner) is entitled to concession of regular bail, are not only devoid of merits but misplaced as well.

6. What is not disputed here is that the case is in active progress. There are direct allegations against the Petitioner, who is the main accused that on the fateful day, he took the prosecutrix to his tubewell/fields, illegally detained and forcibly committed rape without her consent. Whether the prosecutrix was minor, what would be the effect of the minor contradictions in her statement, as projected by the learned Counsel for the Petitioner, will be the moot points to be decided by the trial court. All the remaining arguments, pertaining to the appreciation of evidence, cannot possibly be appreciated at this stage of considering the grant of bail to the Petitioner. Therefore, the contrary arguments of the learned Counsel "stricto sensu" deserve to be and are hereby repelled under the present set of circumstances.

7. In the light of aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side during the course of trial, the present petition for regular bail filed by the Petitioner is hereby dismissed, in the obtaining circumstances of the case.

8. Needless to state that, nothing observed, here-in-above, would reflect, in any manner, on merits of the case, as the same has been so recorded for a limited purpose of deciding the instant petition.