

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-11324-2023 (O&M)

Date of order: 25.08.2023

Ayushman Agarihari @ Aayushman Agarihari

.....Petitioner(s)

Vs.

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. R.S. Rai, Senior Advocate with
Mr. Vivek Thakur, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG Haryana.

Nidhi Gupta, J.

Prayer in this first petition filed under Section 439 of Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") is for grant of regular bail in case FIR No.305 dated 17.08.2022 registered under Sections 354, 506, 384, 509, 420 and 376(2)(n) of Indian Penal Code, 1860 (hereinafter referred to as "IPC"); Sections 3(2)(va) and 3(2)(v) of the SC & ST Act and Sections 66 E and 67 A of the Information Technology Act at Police Station Badshahpur, Gurugram (Annexure P1).

2. FIR in the present case was registered on the basis of statement of victim herself, and the same reads as follows: -

"To, the SHO cyber police station Respected Sir, I Kanta Ranga d/o Dhanpat Singh, is resident of Dhobiwada Badshahpur Sector 66. I came in touch with Ayushman Agrahari s/o Murli Manohar on Shaadi.com in the year 2019 but he didn't marry me despite the promise given by him and took money from me

and threatened me, by making my obscene photos and videos, that if you don't give me money or does not meet me then I will make this obscene photo and video viral and now on 16.8.2022 he sent my obscene video and photo on my brother-in-law mobile (Jija), whose mobile number is 8570003957. The number from which the video came was 8294625436. Ayushman Agrahari's personal number is 8294719423, 7004156860. Please take action...."

3. It is inter alia submitted by learned Senior Counsel for the petitioner that the petitioner is 31 years old, and the prosecutrix is 33 years old. The parties came in touch with each other in the year 2019 through Shaadi.com. On the basis of complaint dated 17.8.2022 made by the victim/complainant, the present FIR (Annexure P1) was registered in which no allegation of rape has been made. Thereafter, victim recorded her first statement under Section 164 Cr.P.C. on 23.08.2022 (Annexure P2) in which too, there were no allegations of rape against the petitioner. Thereafter, statement of the complainant under Section 164 Cr.P.C. was recorded again on 21.11.2022 (Annexure P4), wherein allegations of rape against the petitioner surfaced for the first time, wherein she has alleged that the petitioner made physical relations with the complainant on the pretext of marriage and physically abused her and committed rape upon her repeatedly. Admittedly too, the last alleged episode of physical assault was of February, 2022 yet, FIR has been registered only on 17.8.2022. In challan/report under Section 173 Cr.P.C. filed on 17.08.2022 (Annexure P5) offences under Sections 3(2)(va) and 3(2)(v) of the SC & ST Act, Sections 66 E and 67 A of Information Technology Act and Sections 354, 506, 384,

509, 420 and 376(2)(n) of IPC were also included. Learned Senior Counsel further states that the present FIR has been registered only to pressurize the petitioner and his family members to solemnise marriage with the complainant.

4. Learned State Counsel files custody certificate dated 24.08.2023 which is taken on record. As per the custody certificate, the petitioner has been in custody for 9 months and 2 days. Learned State Counsel submits that the complainant is now married, although she has supported the prosecution case in her testimony. It is further submitted that out of 37 witnesses 2 have been examined so far.

5. I have heard learned counsel for the parties.

6. Without commenting on the merits of the matter, however, keeping in view the totality of the facts and circumstances of the case including the fact that the trial will take some time to conclude, and the fact that there are no other cases against the petitioner, present petition is **allowed**. The petitioner namely Ayushman Agarihari @ Aayushman Agarihari s/o Murli Manohar is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

7. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

8. Pending application(s) if any also stand(s) disposed of.

25.08.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No