

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRA-S-899-2023

Date of Decision: 04.09.2023

Anil

.... Appellant

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Ravinder Phogat, Advocate for the appellant.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Akash Juneja, Advocate
for respondent No. 2-complainant.

NIDHI GUPTA, J. (ORAL)

The appellant has filed the present appeal against the impugned order dated 27.09.2022, passed by the learned Additional Sessions Judge, Rohtak, vide which the first regular bail application of the appellant in case FIR No. 441 dated 22.06.2022 (Annexure A-1) registered under Sections 376(2)(n), 341, 365/34 and 506 IPC and Sections 3(2)(v) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes Act, 1989, at Police Station City, Rohtak, was dismissed.

The aforesaid FIR (Annexure A-1) was registered on the basis of written complaint of the respondent No. 2-complainant/victim which is reproduced as under:-

“That I Kiran daughter of Balkishan, resident of Kabir Colony Mata Darwaja and belongs to Scheduled

Caste. My mother-father has been died. We are two married sisters, I was married in village Muana, in the year 2014 and my divorce had been done in the Panchayat in the year 2017. Now I am residing at above said address with my son Aryan and younger brother Sahil. On 28.04.2022 I had moved a complaint at Women Police Station, against (1) Anil son of Rashtra (2) Sunil son of Rashtra (3) Rashtra, (4) Babita wife of Sunil, (5) Amit Phogat @ Kalu, residents of village Pillana, Charkhi Dadri, regarding threatening to kill me and Anil did physical assaulted me since three years on the assurance of marriage and also used derogatory words related to my caste for defame me. Police of Women Police Station informed the accused persons regarding my complaint without doing any legal action, on which Anil on dated 01.05.2022 called me through mobile no. 9050947092 and threatened to kill me. On 03.05.2022 when I started for police station along with my son and younger brother Sahil, then Anil son of Rashtra, Amit Phogat @ Kalu and 3-4 culprits stopped us near Civil Hospital Rohtak and they were having knife and pistol. They kidnapped me and my brother Sahil and taken us to along with them and Anil forcefully taken to me at Women Police Station by threatening where police got wrote something from me by giving dictation on the one paper, I do not know that what they have got written from me, at that time I was scared. After 3-4 hours of leaving the police station Anil and his accomplices dropped my son and my brother at my house and said that follow our orders otherwise will kill you. Since thereafter, Anil and his accomplices were watching us continuously till now. There continuously danger to life of me and my son and my brother, they can do anything. Kindly save our life and liberty and strictest legal action be taken against the accused person”.

Learned counsel for the appellant, *inter alia*, submits that the appellant and the victim/complainant, who is stated to be 30 years old lady, were in a consensual relationship. The victim/complainant is a divorcee and has a son from her first marriage. Learned counsel contends that though, as per the FIR, the date of alleged incident is 28.04.2022/3.5.2022, however, the FIR was registered around two months thereafter, only on 22.06.2022. Learned counsel further submits that after the alleged incident of 28.04.2022, the parties had even entered into a compromise which is evident from affidavits of respondent No. 2-complainant/victim and the appellant dated 14.05.2022 (Annexure A-2 and A-3, respectively). The appellant is in custody since 05.07.2022. The trial is likely to take long time. No useful purpose will be served by further detention of the appellant in custody. The appellant is not involved in any other case. Thus, it is prayed that he may be released on regular bail.

Per Contra, learned counsel for respondent No. 2-complainant/victim submits that the victim has been impregnated by the appellant. It is stated that even at the time of lodging the present FIR, the complainant/victim was pregnant. However, admittedly, this fact has not been mentioned in the FIR.

Learned counsel for the State has filed custody certificate dated 04.09.2023, which is taken on record, as per which the appellant has been in custody as an undertrial for a period of 01 year, 01 month and 29 days. On instructions from SI Suresh Kumar, learned counsel for the State submits that challan in the present case has already been presented

and charges have also been framed by the trial Court. He further submits that the DNA report is still awaited and the next date of hearing before the trial Court is 09.11.2023, for recording the statement of complainant/victim.

Having heard learned counsel for the parties, but without commenting on merits of the case, keeping in view the totality of the facts and circumstances of the case, including the fact that there is no other case against the appellant as well as the fact that conclusion of trial will take some time, the present appeal is **allowed**.

The appellant-Anil, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

04.09.2023
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No