

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

212

CRM-M-20525-2023 (O&M)

Date of order: 08.08.2023

Sonu

.....Petitioner(s)

Vs.

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Deepak Choudhary, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG Haryana.

Nidhi Gupta, J.

Present is the first petition filed by the petitioner under Section 439 of Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") seeking grant of regular bail in case FIR No.955 dated 15.12.2022 registered under Sections 376, 323 and 506 of Indian Penal Code, 1860 (hereinafter referred to as "IPC") at Police Station City Hansi, District Hisar.

2. Brief facts of the case are that complainant/prosecutrix aged 40 years lodged a police complaint on 15.12.2022 stating that on the intervening night of 07/08.12.2022 she was taken to the hospital by the petitioner, who is the friend of the prosecutrix's son, as she complained of chest pain. That instead of taking her inside the hospital he took her to a secluded place. She tried to escape after getting out of the car but was caught by the petitioner, who tied her hands and mouth with dupatta and raped her.

3. It is inter alia submitted by learned counsel for the petitioner that the petitioner is a friend of the son of the prosecutrix. It is submitted that the petitioner was called to the house of the prosecutrix at the asking of her son as the prosecutrix was unwell. Accordingly, the petitioner took the prosecutrix to the hospital to get her ultrasound done. It is submitted that the allegations in the FIR are utterly false and the petitioner has been falsely implicated in the matter. Learned counsel submits that the incident is alleged to have taken place on the intervening night of 7/8.12.2022, however, FIR has been registered 8 days thereafter only on 15.12.2022. No explanation has been given by the prosecutrix regarding the delay. It is further submitted that even as per the FSL report, no semen was detected on the exhibits/clothes of the prosecutrix. It is also submitted that the material witness in the present case including the prosecutrix already stand examined and therefore, no useful purpose would be served by keeping the petitioner behind bars.

4. Learned State Counsel files custody certificate dated 07.08.2023 which is taken on record, as per which the petitioner has been in custody as undertrial since 29.12.2022 for a total period of 7 months 9 days. Learned counsel submits that out of 17 witnesses 8 have been examined and the complainant is yet to be examined.

5. At this stage, learned counsel for the petitioner submits that the complainant already stands examined on 07.07.2023 as PW1 and in her testimony she has supported the case of the prosecution. Learned counsel for the petitioner produces a copy of the statement of PW1.

6. I have heard learned counsel for the parties.

7. 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 material witnesses/complainant already stands examined; and the fact that the trial will take some time to conclude; and that the petitioner has been in custody since 29.12.2022, for a period of 7 months 9 days; and that there is no other case against the petitioner, the present petition is **allowed**. The petitioner namely Sonu son of Jita Ram @ Jeet Singh is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

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

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

08.08.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No