

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-27950-2023

Date of Decision: 25.08.2023

Kulwinder Sharma

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

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

Mr. Brijesh Sharma, AAG, Haryana.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 06 dated 18.01.2023 registered under Sections 354-A(1)(i), 354-B, 376(2)(n), 457, 506 and 450 IPC and Section 66 E of the Information and Technology Act, 2000 (Section 25, 54 and 59 of the Arms Act deleted at the time of presentation of challan) at Police Station Jakhal, District Fatehabad.

The aforesaid FIR was registered on the statement of the victim which is reproduced as under:-

“Stated that I am resident of above said address and I do the household work. I am 12th standard passed and knew read and write the hindi writing. My marriage was solemnized in year 2014 with Sukhwinder Singh S/o Kaka ram R/o Talwara. Kulwinder Singh S/o Purshotam Sharma R/o Talwara is our neighbour. On dated 16.01.2023 in the night at about 10:30 PM I was sleeping with my husband at

home and out neighbour Kulwinder with bad intention entered out house and knocked our door. On which I said to my husband that someone knocking the door, thereafter my husband opened the door and saw that Kulwinder was standing there. He started scuffling with my husband and I tried to intervene then the accused Kulwinder with bad intention laid me down and started doing illicit act with me when I resisted and my husband tried to rescue me but the accused could not come under the control of both of us. Thereafter I shouted. After hearing our noise our neighbour namely Jeewan S/o Megh Raj, Sukhpal S/o Krishan reached on the spot, accused after seeing them accused Kulwinder ran away via roof and while running accused threatened that today you are spared and in future who will spare you. It is my humble submission that strict legal action be taken against the accused.”

Learned counsel for the petitioner, *inter alia*, submits that the petitioner has been falsely implicated in the present case. The victim is a married lady of 30 years of age. There are no allegations of rape against the petitioner in the FIR. It is only in the statement of victim dated 21.01.2023 (Annexure P-2) recorded under Section 164 Cr.P.C., that it has been alleged that the petitioner had committed rape with her in the year 2019. Case of the victim is that the petitioner had committed rape upon her by blackmailing her on the pretext of a video which he had recorded, but no such video has been recovered. Even no specific details i.e. date, time and place etc. have been given as to when the rape was committed with the victim in the year 2019. It is further submitted that the petitioner is in custody since 09.02.2023. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner may be released on

regular bail.

Per Contra, learned counsel for the State vehemently opposed the submissions made by learned counsel for the petitioner. Learned counsel for the State has filed custody certificate dated 24.08.2023, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 06 months and 16 days. He further submits that charges in the present case are yet to be framed by the trial Court.

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 petitioner, as well as the fact that conclusion of trial will take some time, the present petition is **allowed**.

The petitioner-Kulwinder Sharma, 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.

25.08.2023
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(NIDHI GUPTA)
JUDGE

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