

CRM-M-41404-2023

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2023:PHHC:111692

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-41404-2023

Date of Decision: 25.08.2023

Yashbir

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. B.K. Majoka, 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. 1076 dated 14.11.2022 registered under Sections 376 and 452 IPC at Police Station Camp Palwal, District Palwal.

The aforesaid FIR (Annexure P-1) was registered on the basis of written complaint of the victim which is reproduced as under:-

“That I am resident of Shamshabad near Kidwai Pull, Palwal 121102. On 09.11.2022, at about 2:00 AM, I wake up for toilet, in the meanwhile, Yashbir son of Sh. Heera, resident of Shamshabad came from behind and took on the roof by closing mouth. Thereafter, he commits illegal act with her forcibly and then the husband of the complainant also wake up and then he fled away by seeing him. The

brother of Yashbir threatened to kidnap the complainant in night. So, it is requested to your goodself that strict action be initiated.”

Learned counsel for the petitioner, *inter alia*, submits that the petitioner has been falsely implicated in the present case. The victim is a married woman of 22 years of age. She is in consensual relationship with the petitioner, as is evident from the copies of gate register dated 23.05.2022 and 09.05.2022 (Annexures P-4 and P-5, respectively), as per which the petitioner and the victim had gone together to King Inn Oyo, Hotel at Palwal. It is further submitted that the date of alleged incident is 09.11.2022, whereas the present FIR was registered on 14.11.2022. Therefore, it is submitted that the allegations in the FIR are totally false and fabricated. The petitioner is in custody since 15.11.2022. 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 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 09 months and 10 days. Learned counsel further submits that in the present case charges have already been framed by the trial Court and the next date before the trial Court is 03.10.2023, for commencement of prosecution evidence.

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-Yashbir, 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