

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

213

CRM-M-43835-2023 (O&M)

Date of decision: 02.12.2023

Sukhwinder Singh**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Shadab Ahmad, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

Mr. Sumeet Puri, Legal Aid Counsel
for the complainant. (Through video conferencing)

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 0278 dated 04.05.2023, registered under Sections 323, 354, 354A, 328, 34, 342, 506 of the IPC at Police Station Shahabad, District Kurukshetra, whereby Section 376 read with Section 511 of the IPC were added and Section 328 IPC was deleted later on.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was lodged on the basis of a complaint submitted by complainant 'H' (*name withheld*) on 04.05.2023

Neutral Citation No. 2023:PHHC:153608

alleging therein that the petitioner was known to her family from the last two years. He used to do obscene acts with her and sexually harass her and had also been pressurizing her to maintain physical relations with him. He had instigated her own family members turn against her. He was the contractor for parking vehicles in Shahabad and was running this business adjacent to police station. A small room had been constructed by him in this area. Once she had gone to pick something from his room and he had attempted to commit rape upon her. On being instigated by the petitioner, her family members had assaulted her on 18.03.2023 and had tied her limbs and had confined her in a room for four days without providing any meal or even water. He was having criminal antecedents. His brother was involved in the business of selling drugs. She was on the verge of committing suicide. Therefore, she prayed for taking penal action against the petitioner and her own family members. Initially a case under Sections 323, 354, 328, 506, 354A and 342 read with Section 34 of the IPC was registered. Subsequently, offences punishable under Section 376 read with Section 511 of IPC was added and offence under Section 328 IPC was deleted. During investigation, the petitioner was arrested on 10.06.2023. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner along with co-accused is facing trial for commission of aforementioned offences.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case by the complainant. The allegations qua making attempt to rape had not been initially leveled against him and the complainant by improving her version, while recording her statement under

Neutral Citation No. 2023:PHHC:153608

Section 164 Cr.P.C., had leveled such false allegations. The petitioner was a known social activist in the area. In fact there was litigation between the family of the complainant and their neighbours and several cases were pending. The petitioner had rather helped the family of the complainant in those cases. The complainant was having relations with one Gurpreet Singh, who was a married person. Her own parents were offended with her due to said relationship. She was even disowned by them. She had created a ruckus and a Calendra was also filed against her. She had lodged a false case against her neighbours earlier also. Her own act and conduct was not proper. She had pressurized the petitioner to arrange surety for the purpose of her release on bail in Calendra, which was filed against her and on refusal by the petitioner, she had implicated him in this case. Other persons, nominated as co-accused in this case, had already been granted concession of anticipatory bail. The custodial interrogation of the petitioner was no more required. The trial is likely to take some time. No useful purpose would be served by keeping him in custody anymore. Hence, he has argued that the present petition deserves to be allowed.

4. *Per contra*, learned State counsel, assisted by learned legal aid counsel, who is appearing through video conferencing on behalf of the complainant, has argued that there are serious and specific allegations against the petitioner. Charges have already been framed against him. There is nothing on record to show that there would be any undue delay in conclusion of trial. Hence, he has argued that this petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

Neutral Citation No. 2023:PHHC:153608

6. The petitioner is alleged to have outraged the modesty of the complainant, sexually harassed her and is further alleged to have made an attempt to commit rape upon her. In her statement as recorded under Section 164 Cr.P.C. before the Judicial Magistrate, she had given details of the incident when the petitioner had attempted to commit rape upon her. Today, learned counsel for the complainant has also placed on record, a copy of her sworn deposition as recorded before the trial Court, which also shows that she has reiterated the same allegations. The statement of the complainant has been partly recorded and is yet to be completed. A reasonable apprehension has been expressed by learned counsel for the complainant that the petitioner can intimidate the complainant, if he is extended benefit of bail. The allegations against the petitioner are serious in nature. Keeping in view the gravity of offences alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that the petitioner does not deserve to be given concession of regular bail. Hence, the petition stands dismissed.

02.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No