

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

210

CRM-M-45113-2023

Date of Decision: 15.09.2023

Rohit Arora

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. G.P.S. Ghuman, Advocate for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 106 dated 15.06.2023, registered under Sections 376 and 384 IPC at Police Station Khanna City-2.

Briefly, the aforesaid FIR was registered on the statement of the prosecutrix alleging therein that the petitioner had repeatedly committed rape upon her since 19.09.2015, on the pretext of marriage. It is further alleged that the petitioner had recorded her obscene video and also clicked photographs. He threatened the prosecutrix to viral her obscene video and photographs on the social media and used to extort money from her on different occasions and caused huge financial loss. Later on, the petitioner refused to solemnize marriage with her. On 24.09.2018, around 9:00-10:00 PM, the petitioner went to the house of

the prosecutrix without informing her and at that time her niece-Arshpreet Kaur and her mother were also present there. A few days thereafter, the petitioner entered the house of the prosecutrix after accrossing the wall of main gate and picked up a fight with her. He also damaged her mobile phone and took out the memory card and sim from her mobile phone. Thus, the petitioner had tortured the prosecutrix mentally and physically up to September, 2022.

Learned counsel for the petitioner, *inter alia*, submits that petitioner has been falsely implicated in the present case. The aforesaid FIR was registered on the statement of the prosecutrix who is 39 years of age. It is submitted that the alleged date of occurrence is 19.09.2015, however, the present FIR was lodged 07 years thereafter, on 15.06.2023. It is further submitted that even prior to this FIR, the victim had lodged three complaints on 01.11.2022, 18.11.2022 and 16.02.2023, wherein after investigation, the petitioner has been found innocent. In this regard, learned counsel for the petitioner refers to the latest report dated 07.04.2023 (Annexure P-4) of the Deputy Superintendent of Police, Crime Against Women, Khanna, wherein it has been recorded that *'during the counselling and according to the photos, WhatsApp chats given by the applicant, nothing of coercion, threats, came to light and the applicant has not been able to present any concrete evidence/witenss in this regard. No truth has come out in the allegations made by the applicant. Therefore it is not necessary to keep the application pending. According to the report of the in-charge women cell Khanna, it is recommended to submit the application to the office'*. Learned counsel

for the petitioner submits that the petitioner has been in custody since 15.06.2023 and undertakes that he will not tamper the evidence or influence the witnesses. 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 14.09.2023, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 06 months and 02 days. Learned counsel for the State vehemently opposed the prayer for grant of regular bail to the petitioner by submitting that allegations levelled against the petitioner are of serious nature. It is submitted that the charges are yet to be framed by the trial Court. The prosecutrix and the other prosecution witnesses are yet to be examined. It is further submitted that FSL report has also not been received so far, therefore, it is prayed that till the receipt of FSL report, the petitioner must not be enlarged on regular bail.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case including the fact that the trial is yet to commence and will take time in conclusion, and no useful purpose will be served by further detention of the petitioner who is in custody since 15.06.2023; and the fact that he is not involved in any other case, as well as the fact that the FIR in the present case was lodged after 7/8 years of the occurrence, the present petition is **allowed**.

The petitioner-Rohit Arora S/o Vinod Kumar, 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.

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

15.09.2023
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(NIDHI GUPTA)
JUDGE

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