

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

208

Criminal Misc. No. M-45396-2023

Date of decision :-12.10.2023

Arjun Sharma

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Pradeep Chhoker, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana
Assisted by SI Bijender Singh.

NIDHI GUPTA J. (Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner during pendency of the trial in case FIR No.354 dated 13.6.2023, under Sections 323, 328, 341, 384, 354, 376(2)(n) and 506 IPC, registered at Police Station Old Industrial Panipat, District Panipat.

The FIR has been registered on the complaint of the prosecutrix, who was 21 years of age at the time of incident. The contents of the FIR reads as under :-

*“To the Superintendent of Police, Panipat.
Subject: Complaint regarding taking legal action
against accused Arjun S/o Mahender Singh R/o
Ganga Ram Colony, Kabri Road, Panipat,
M.No.9758227079. Sir, Applicant is respectfully
submitted that I Sabnam aged 21 years d/o*

Riajudin @ Rajudin is R/o Billu Colony, Kabri Road, Panipat and law abiding and peaceful lady.

2. That accused was running a cloth shop at Kabri Road in the name of Prem, I used to visit his shop for purchasing clothes. In year 2022, on the day of Sawan Shivratri, I had gone to shop of accused for purchasing cloths, where the accused by making me to consume some drug by mixing in cold drink and committed rap with me. When I regained consciousness, the accused threatened me that he has prepared obscene video and in case me told to anyone or took any action against him, he will made viral the said video. Due to which I did not disclosed about the incident to my family members.

3. That the accused committed wrong act with with me by calling at his house at Devnagar where no one residing and many times at his shop. 4. The accused committed rape with me by calling at Hotel situated at red light on two different days under the threat of said video. I have remember the name of hotel but I will shown you by reaching at spot. Due to the fear of going viral of my video I could not take legal action against the accused. The accused also extracted Rs. 20,000/- from me by threatened me. Now the accused is threatening me that in case I does not establish physical relations with him and does not pay Rs. 50,000/- he will make viral me video on the internet. The accused threatening me continuously and demanding the money. On 05.06.2023 I was going to bring some household articles from the shop, above said accused person standing under the pipal tree situated between Gangaram Colony and Billu Colony, he caught my hand and teased me and forcefully entered his hand in my salwar and

said that how much your rate. I was raised hue and cry, then on seeing the passerby gathered at the spot, accused fled away from the spot by giving threats to making viral my video and to kill me. Accused repeatedly blocked my way and followed me and he harassed me by calling, due to which I am very distress and mentally harassed. Therefore, it is requested to you that strict legal action be taken against the accused and iustice will be provided to me and protected my life and liberty. I shall be thankful to you.”

Learned counsel for the petitioner *inter alia* submits that the allegations made in the FIR against the petitioner are utterly false and fabricated. It is stated that as per the FIR the first incident is alleged to have occurred on the day of Sawan Shivratri of 2022. As such, there is delay of about one year in lodging the FIR. As per FIR, the last incident occurred on 05.6.2023, whereas the FIR was lodged on 13.6.2023. It is submitted that in actual fact, the petitioner and the complainant both were in consensual relationship. It is stated that the complainant is a married women aged 21 years, whereas the petitioner is unmarried man. He further submits that the petitioner has been in custody as undertrial since 08.7.2023 and no useful purpose will be served by keeping the petitioner further in custody.

Learned State counsel has filed the custody certificate dated 11.10.2023 in Court today. The same is taken on record. Copy thereof is supplied to the counsel opposite. As per the said custody certificate, the petitioner has been in custody as undertrial for a period of 03 months and 04 days. Learned State counsel submits that the victim in her statement under Section 164 Cr.P.C. has supported the

case of the prosecution. He further submits that the charges have been framed by the learned trial Court, however, no prosecution witness has been examined so far.

I have heard learned counsel for the parties and gone through the case file carefully.

Without commenting on the merits of the case, however, keeping in view the totality of facts and circumstances of the case, including the fact that the trial of the case is likely to consume considerable time as after framing of charge, no prosecution witness has been examined so far; and keeping in view the custodial period of the petitioner; and the fact that perusal of custody certificate shows that there is no other case pending against him, his further custody may not be justified. Therefore, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner-Arjun Sharma s/o Mahender be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

The petition is allowed.

October 12, 2023

Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No