

2023:PHHC:090687

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 51459/2022

Date of decision: 18.07.2023.

Amarjit Yadav

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rajnish K. Gupta, Advocate for the petitioner.
 Mr. Pankaj Khullar, AAG Punjab
 Mr. Krishan Kanha, Advocate for the complainant.

Nidhi Gupta, J.

Petitioner-Amarjit Yadav son of Rohtas Yadav in this first petition under Section 439 Cr.PC prays for grant of regular bail in case FIR No. 37 dated 7.4.2022 under Sections 376, 506, 354-D and 394 IPC registered at PS Nangal, District Rupnagar.

As per allegations in the FIR complainant Rinku Sharma wife of Ajay Sharma had suffered statement before the police that her husband has been doing business of electronic items at Golabai, State Orissa for the last about 4-5 year. She had four sisters. The marriage of her younger sister Pooja was settled to solemnize with present petitioner Amarjit Yadav. On 5.8.2016, her sister Pooja and Amarjit Yadav had come to her house at Nangal. At about 11.00 PM petitioner Amarjit Yadav called her in his room on the pretext to charge his mobile and when she went in his room to take the mobile phone,

petitioner Amarjit had made physical relations forcibly with her without her consent. It is further alleged that the petitioner had threatened the complainant to eliminate her along with her sister and family members, if she raised any noise. Thereafter, petitioner Amarjit many times came to the house of complainant at Nangal and forcibly committed rape with her. He has also clicked her obscene photographs on his mobile phone and was blackmailing her. He was giving threats to send the obscene photographs to her husband and family members. Petitioner had also taken the gold ornaments from the complainant. He was extracting the money from the complainant which her husband used to send her. In the year 2020, petitioner, told the husband of the complainant that he has relations with his wife, due to which her husband broke relations with her and stopped sending maintenance expenses. After registration of the FIR, on 5.5.2020 complainant suffered supplementary statement to the police that in the year 2020, one Ashish Kumar son of Basti Ram who was relative of petitioner Amarjit Yadav, was sending her lewd messages on her mobile from his mobile and was threatening her to not take any legal action against Amarjit Yadav.

Ld. Counsel for the petitioner inter alia submits that the petitioner was engaged to real sister of the victim/complainant. Ld. Counsel submits that in actual fact the complainant was very keen to marry the petitioner and had been asking him to break off his engagement with sister of the complainant, however, petitioner refused to do so. It is submitted that it is for this reason that the victim has trapped the petitioner.

It is submitted that at the time of alleged occurrence victim was 33 years of age and mother of a 13-year-old child, whereas, the petitioner was an unmarried boy of 26 years. It is further submitted that though date of

alleged incident is 5.8.2016, however, the FIR has been registered on 7.4.2022, after a delay of almost 7 years. Ld. Counsel states that pending trial petitioner has been in custody since 5.5.2022. It is also submitted that there is a CD in the possession of the petitioner wherein victim can be heard using abusive and bad language and demanding Rs.5 lacs from the petitioner.

It is further submitted that the victim has not been appearing before the trial court since last many dates and is deliberately delaying the trial, and therefore, prayed that the petitioner be released on regular bail.

Per contra, ld. Counsel for the complainant submits that perusal of the zimni orders reveals that victim had appeared on the last date of hearing i.e. 8.6.2023 and had not appeared prior to that only on 17.4.2023, 16.5.2023 and 31.5.2023. Ld. Counsel for the complainant submits that it has been mentioned in the FIR that the petitioner had taken some money from the victim. Learned counsel submits that without admitting, it is perhaps this money which the victim is alleged to be demanding back in the alleged CD.

Ld. State Counsel submits that another FIR No.2 of 2011 was registered against the petitioner under Section 380 and 457 IPC, however, the petitioner stands acquitted in the said case on 17.7.2017.

Ld. State counsel further submits that latest custody certificate in respect of petitioner is inadvertently not available, however, perusal of the last custody certificate dated 7.3.2023 reveals that as on 7.3.2023 petitioner had been in custody for 10 months and 6 days.

I have heard ld. Counsel for the parties.

Keeping in view the totality of the facts and submissions, without commenting on the merits of the case, and in view of the fact that petitioner is in custody since 5.5.2022 for the last more than one year, and the fact that the case is still at the stage of prosecution evidence and is thus, likely to take time, the present petition is **allowed** and petitioner Amarjit Yadav son of Rohtas Yadav is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

However, nothing stated above shall be taken as an expression of opinion on the merits of the case.

18.07.2023.
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No