

CRM-M-51502-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-51502-2022 (O&M)
Reserved on : 14.09.2023
Date of decision : 26.09.2023

Siddharth ... Petitioner(s)

Versus

State of Haryana ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. P.S. Ahluwalia, Advocate with
Mr. Keerat Dhillon, Advocate for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana.

Mr. J.S. Kang, Advocate for the complainant.

ALKA SARIN, J.

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.141 dated 09.08.2022 under Sections 376(2)(a), 377, 406, 506/34 of the Indian Penal Code, 1860 and Sections 3(2)(v), 3(1)(r), 3(1)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, registered at Police Station Women, Jind (Annexure P-1).

2. Learned counsel for the petitioner would contend that the petitioner and the complainant were in a consensual relationship since 2015

and that the first incident of alleged rape pertains to the year 2015, whereas the FIR has been lodged in the year 2022 i.e. after a delay of 07 years. It is further the contention of learned counsel that the allegations regarding the petitioner having administered some intoxicating substance to the complainant and having taken compromising photographs were found to be false and hence Sections 354-C and 328 IPC were deleted. Learned counsel would further contend that accusations qua caste have been attributed to the family and not to the petitioner. Qua Section 377 IPC, learned counsel for the petitioner would contend that the complainant had refused to get her medical examination done. Learned counsel for the petitioner has also argued that the complainant is habitual in filing false FIRs inasmuch as earlier FIR No.86 dated 22.09.2020 under Sections 376/511, 506 and 120-B IPC was filed by her against her brother's wife and wife's brother in which a cancellation report was prepared. Learned counsel would further contend that the petitioner has been in custody for a period of 01 year 01 month and 01 day.

3. Learned counsel for the State has filed the status report by way of an affidavit of Nar Singh, Deputy Superintendent of Police, Jind-Uchana, District Jind wherein it has been stated that the complainant had refused to get her medical examination done qua the charge under Section 377 IPC and that there was no evidence on the file to sustain the charge under Section 376 IPC. It has further come in the status report that a pen drive having audio recording of exchange of conversation, screen shots WhatsApp chat messages running into 46 pages were produced by the complainant and that

a perusal of the chat messages reflects that no incriminatory evidence has come against the petitioner. It is further stated in the status report that during the course of investigation no incriminatory evidence came against the family members of the petitioner. Learned State counsel has also filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 01 year 01 month and 01 day.

4. Heard learned counsel for the parties.

5. In the present case the allegations are that the complainant had been raped on the pretext of marriage. It is not denied that the petitioner and the complainant had been in a consensual relationship since 2015. Though the allegations were made regarding administering of some intoxicating substance in 2015 and then committing rape as also of taking compromising photographs, both the allegations regarding intoxicating substance having been administered and compromising photographs having been taken were found to be false and accordingly Sections 354-C and 328 IPC were deleted. The allegations qua having used casteist remarks were made against the family members against whom, during investigation, no incriminatory material was found. Qua the allegations under Section 377 IPC, the complainant refused to get her medical examination done. As per the custody certificate, the petitioner has already been in custody for a period of 01 year 01 month and 01 day. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

6. In view of the above and without commenting upon the merits

of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

7. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

8. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

9. Disposed off. Pending applications, if any, also stand disposed off.

26.09.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO