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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-49890-2023 (O&M)
Date of decision : 16.11.2023

Dheeraj Gupta ... Petitioner(s)

Versus

State of Haryana ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. G.S. Dhillon, Advocate &
Mr. H.S. Rajput, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

ALKA SARIN, J. (ORAL)

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.83 dated 12.07.2023 under Sections 376, 377 and 506 of the Indian Penal Code, 1860 registered at Women Police Station, District Faridabad, Haryana.

2. The FIR in the present case was registered on the statement of the prosecutrix who has stated that on 24/25.12.2022 she had gone to watch a movie at Crown Interior Mall and had taken a ticket for the 09.30 PM show. The name of the movie was Avtar. One of her friends was about to come but her mother refused as such she did not come and the complainant

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went to watch the movie alone. Two boys who were sitting beside her were unknown to her. While watching the movie, one of the boys started talking to her and in the meanwhile after some time that boy brought some snacks and cold drink and she had got a headache after consuming the said snacks and cold drink and before the movie ended she moved out. The boys started chasing her and offered to drop her in his car. She sat in the car which was alleged to have been parked in the basement. Thereafter, he switched on the music and started touching her private part and when she objected, he forced himself upon her. He had also threatened her with a knife. On the basis of the said statement the FIR was lodged.

3. Learned senior counsel for the petitioner would contend that though the incident is dated 24/25.12.2022 the FIR itself was lodged on 12.07.2023 i.e. after a delay of 07 months. Learned senior counsel would further contend that there is no medical in the present case to *prima facie* corroborate the allegations made in the FIR. It is further the contention that the prosecutrix in the present case has since been examined and cross-examined and she has not supported the version of the prosecution. Learned senior counsel has also contended that the wife of the petitioner is in advanced stage of pregnancy and due for her delivery in the month of December 2023. It is further the contention of learned senior counsel that the petitioner has been in custody for a period of 03 months and 20 days and that he has absolutely clean antecedents.

4. Learned counsel for the State has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a

period of 03 months and 20 days and that there is no other case pending against him. Learned counsel for the State is not in a position to deny the fact that the prosecutrix has since turned hostile and that there is no medical on the record to *prima facie* corroborate the allegations made in the FIR.

5. Heard.

6. In the present case the incident is alleged to have taken place on 24/25.12.2022 and the FIR was lodged after a delay of 07 months on 12.07.2023. There is also no medical on the record to *prima facie* corroborate the allegations made in the FIR. The prosecutrix in the present case has been examined and cross-examined and she has not supported the case of the prosecution. As per the custody certificate the petitioner has been in custody for a period of 03 months and 20 days. As per the learned counsel for the petitioner, the petitioner's wife is also in advanced stage of pregnancy and due for her delivery in the month of December 2023. There is no other case pending against the petitioner. 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.

7. 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.

8. 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.
9. 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.
10. Disposed off. Pending applications, if any, also stand disposed off.

16.11.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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