

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

107/236

CRM-5821-2024 in/&
CRA-S-195-2024 (O&M)

Date of decision:06.03.2024

Sahil

....Appellant

V/s

State of Haryana and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sunil Goswami, Advocate for the appellant.
Ms. Priyanka Sadar, AAG Haryana.
None for respondent No.2.

SUMEET GOEL, J. (Oral)

CRM-5821-2024

Application is allowed as prayed for. Documents are taken on record as Annexure A/4 & A/5, subject to all just exceptions. Registry to tag them at the appropriate place.

CRA-S-195-2024

1. Present appeal has been filed under Section 14-A of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 for grant of regular bail to the appellant in case bearing FIR No.0019 dated 19.03.2023, registered for the offences punishable under Sections 365, 341, 376-D, 506, 328, 342, 34 of IPC and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (during investigation Section 365 IPC was deleted and Section 341 of IPC was added) at Police Station Women, Jind, District Jind.
2. The case set up in the FIR in question is as follows:-

“To SHO Women Police Station, Jind. Complaint for committing the rape after kidnapping her from Gali and giving the threatening to kill. Sir, it is submitted that I, Anju d/o Madan Lal caste Balmiki, am resident of village

Nirjan, Distt. Jind. I am aged about 22 years. My marriage was solemnized with Naresh son of Kitab Singh, resident of village Kharak. Now I am living with my sister for about two months at Punjabi Dharamshala, Jind. On today dated 19.03.2023 at about 11.30 AM, I was going Pooja Tailor (Suit wali) and in the meantime three young boys came in a grey colour vehicle and forcibly put me in that vehicle and took in Housing Board flats and thereafter drink me alcohol and then gave some intoxicating pill to me. Thereafter they forcibly committed wrong act with me. There were three boys in the said vehicle. 1. Deepak Brahman, village Badi Koth, 2. Sahil village Julani, caste Jat and one another boy, I do not the name and address of the said boy. After doing the wrong act with me, they closed me in a room. After some time, they went away from the said room. I have run away from the spot after saving my life. After taking phone of some unknown person, I telephonically called my sister and Jija. Thereafter I, my sister and my jija has come to the police Station Women, Jind for lodging the complaint. Sd/- Anju Complainant. Anju d/o Madan Lal, village Nirjan, Distt. Jind. Mob no.9992196431, 87087544693.”

3. Learned counsel for the appellant has argued that the appellant was arrested on 01.05.2023 and the trial is underway. Learned counsel has referred, *in extenso*, to the testimonies of PW-1 (victim) as also PW-2 (brother of the victim) to argue that the prime prosecution witnesses have turned hostile and in all likelihood, trial is not likely to result in conviction of the appellant. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the appellant does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 06.03.2024 in Court, which is taken on record.

5. Respondent No.2-complainant was served by way of dasti process for today. However, none has appeared on her behalf.

6. I have heard counsel for the parties and have gone through the available records of the case.

7. The appellant was arrested on 01.05.2023 whereinafter investigation was carried out and challan stands presented on 07.07.2023. Total 18 prosecution witnesses have been cited and culmination of trial will take its own time. The rival contention of learned counsel for the parties; regarding the weightage required to be attached to the hostile witnesses i.e. PW-1 (victim/complainant) as also PW-2 (brother of the victim); shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the appellant absconding from the process of justice or interfering with the remaining prosecution evidence. As per custody certificate dated 06.03.2024 filed by learned State counsel, the appellant has already suffered incarceration for a period of more than 10 months & is not shown to be involved in any other case. Suffice to say, further detention of the appellant as an undertrial is not warranted in the facts and circumstances of the case.

8. In view of above, the present appeal is allowed. Appellant is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the appellant shall remain bound by the following conditions:-

- (i) The appellant shall not mis-use the liberty granted.
- (ii) The appellant shall not tamper with any evidence, oral or documentary, during the trial.

- (iii)

The appellant shall not absent himself on any date before the trial.
- (iv)

The appellant shall not commit any offence while on bail.
- (v)

The appellant shall deposit his passport, if any, with the trial Court.
- (vi)

The appellant shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii)

The appellant shall not in any manner try to delay the trial.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the appellant.

10. Ordered accordingly.

11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

12. Since the main appeal has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

March 06, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No

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