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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4612-2024 (O&M)

Date of Decision: 08.02.2024

AJAY

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. B.S. Tewatia, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Sajan, Advocate for
Mr. Ashok Kaushik, Advocate
for the complainant.

...

SUMEET GOEL, J. (Oral)

CRM-5907-2024

Application is allowed, as prayed for, subject to all just exceptions. Documents are taken on record as P-8 (Colly).

Registry is directed to tag them at appropriate place.

CRM-M-4612-2024 (O&M)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.55 dated 21.07.2018, registered for the offences punishable under Sections 376, 354-A, 450 and 506 IPC and Section 67 of IT Act (Sections 450, 376, 354-A and 506 IPC were deleted and Section 354-D and 509 IPC were added later on) at Police Station Women Palwal District Palwal.

2. The case set up in the FIR in question is as follows:-

against accused Ajay s/o Ganga Dutt, Caste Brahmin, resident of Village Swamika, Tehsil Hatheen, Distt. Palwal. Smt., the facts of the application are that the applicant Keshanti w/o late Shri Tek Chand, caste Gurjar, is a resident of Village Swamika, Tehsil Hatheen, Distt. Palwal. The incident is about one month back when the applicant was sleeping in her house, at about 11.00 hrs night, the accused with moral turpitude entered into my house and committed teased out on her. The applicant just awoken and agitated but the accused laid a handkerchief on her face as a result she got fainted. Then the accused threatened the applicant and forcibly committed rape on her and taken photographs with mobile and threatened not to disclose the incident to anyone or take any action otherwise he will finish me. To this, the applicant just to save her and her family's dignity kept calm and didn't disclose the same but the accused started blackmailing the applicant and threatened that in case she does not have sex with him, he will then get the photographs viral on whatsapp and defamed her in the society. On agitating by the applicant, the accused got the photographs viral on other boys of the village as a result the accused defamed and insulted me in the society and still indulged in frequent threatening the applicant to finish her and her children's lives in case she is not having sex with him. Thus, the applicant requests that a case be registered and stern action against the accused may be taken and justice may be done to the applicant. The lives of the applicant and her children may also be saved. Thanking You. Sd/- Keshanti w/o late Shri Tek Chand, Caste Gurjar, Resident of Swamika, Tehsil Hatheen, Distt. Palwal, Mob: 9813998871., Dated 21.7.2018., Place: Palwal.”

3. Learned counsel for the petitioner has argued that the FIR in question was earlier registered under Sections 354-D and 509 IPC and Section 67 of IT Act wherein the petitioner was granted regular bail on 27.09.2018. The petitioner has been regularly appearing before the learned trial Court and facing trial since the year 2018. Vide order dated 12.07.2023, passed by the ld. JMIC, Palwal, the offence of Section 376 IPC was also invoked against the petitioner. The learned counsel for the petitioner has submitted that pursuant to addition of such offence i.e. Section 376 of IPC the petitioner was taken into custody. Thus, regular bail

is prayed for.

4. Learned State counsel as also learned counsel for complainant have opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail.

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

6. The petitioner was granted regular bail on 27.09.2018 in respect of offences under Sections 354-D and 509 of IPC and Section 67 of IT Act whereinafter the petitioner was regularly facing trial in accordance with law. It is only after addition of the offence under Section 376 IPC on 12.07.2023 that the petitioner was taken into custody. The petitioner has been facing the trial regularly since the year 2018, there is no tangible material available on record to indicate that the petitioner has ever extended any threat to the complainant or witnesses & no tangible material has been brought forward to indicate that there is likelihood of the petitioner absconding from the process of law or interfering with the prosecution evidence. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner 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 petitioner shall remain bound by the following conditions:-

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

- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner 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/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. 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 petitioner.
9. Ordered accordingly.
10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

08.02.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No