

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

209

CRM-M-7171-2024

Date of Decision: 16.02.2024

Naman Kumar

.... Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. R.S. Hooda, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 2nd petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 0244 dated 30.03.2023 (Annexure P-1) registered under Section 346 IPC (report under Section 173 Cr.P.C. was presented under Sections 346, 376(2)(n) and 419) at Police Station Rohtak City, District Rohtak.

The aforesaid FIR was registered on the basis of statement of father of the victim, which is reproduced as under:-

“.....I Rajender son of Ram Kumar am resident of H. N. No. 1516, Ward No. 1, Sanjay Colony, Rohtak. My wife Rekha is residing separately from me for the last about 5 years in Delhi. I have two daughters-victim and Annu and one son namely Pushkar. My daughter/victim has done ANM course and presently she is serving in Navjivan Hospital. That on 24.03.2023, when the victim left for her duty at 8:00 am but neither she reached at her place or work nor returned back home. Today I enquired about my daughter/victim, but could not trace her whereabouts. That on 30.03.2023, I received

mobile call o my daughter/victim from Mobile No. 97293-88199 but she did not tell anything about herself. My daughter may please be traced out.....”

Learned counsel for the petitioner, *inter alia*, submits that the victim was 21 years of age, when the alleged incident took place. It is submitted that the allegations levelled in the FIR are false and fabricated as the petitioner and the victim were known to each other prior to the incident and due to some misunderstanding on the part of the complainant, the present FIR was lodged. No such offence has been committed by the petitioner, as is borne out from the order dated 16.01.2024 (Annexure P-5) passed by a co-ordinate Bench of this Court in CRM-M-2334-2024, 'Naman Kumar vs. State of Haryana and others', filed for quashing of the aforesaid FIR on the basis of compromise, wherein the parties were directed to record their statements before the trial Court qua genuineness of compromise so effected between the parties. It is further submitted that the date of alleged incident is 24.03.2023; whereas the present FIR has been lodged almost one week thereafter i.e. on 30.03.2023. The petitioner has been in custody since 27.05.2023. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner may be released on regular bail.

Learned counsel for the State has filed custody certificate dated 14.02.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 08 months and 18 days. As per custody certificate, there is no other case against the petitioner. It is submitted by learned counsel for the State that swabs were not taken in the present case, as the incident was old. However, the

victim in her statement under Section 164 Cr.P.C. has fully supported the case of the prosecution.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case; and the fact that matter has been compromised between the parties and vide order dated 16.01.2024 (Annexure P-5) passed by a co-ordinate Bench of this Court in CRM-M-2334-2024, the parties were directed to record their statements before the trial Court qua compromise; and the custody certificate shows that there is no other case against the petitioner; and the fact that conclusion of trial will take considerable time, therefore, no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed.**

The petitioner-Naman Kumar S/o Laxmi Narayan, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

16.02.2024

rishu

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No