

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

212

Criminal Misc. No. M-6855 of 2024

Date of decision :-14.02.2024

Dinesh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ram Bilas Gupta, Advocate
for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

NIDHI GUPTA J. (Oral)

Prayer in this first petition is for grant of regular bail to the petitioner in case FIR No. 76 dated 02.7.2023, under Sections 376(2)(n) and 506 IPC, registered at Police Station Women, Sector 16-A, Faridabad.

The FIR was registered on the basis of statement of the victim herself, which reads as follows :-

“Stated that I am of the above address. My parents have passed away; we have two sisters and one brother. I am the eldest in the house. We only three live in the family. A boy named Dinesh has been coming to our house for about 4 years. Dinesh my grandmother seems to be related. My mother was ill for a long time. Dinesh used to come to help us. At

that time, my brother Pawan was also very ill. My brother was suffering from TB. Since that time Dinesh, forcibly had a physical relationship with me on the pretext of marriage. Dinesh has been with me for almost a year. By luring and forcibly having physical relations without my consent. Dinesh came to my house on 1.7.23. At around 1:00 in the night, he forcefully had physical relations with me without my consent and for the first time on 28.04.22, he forced me to have sexual intercourse against my wishes by threatening to kill me and build relationships. Dinesh told me that he got engaged. Dinesh refused to marry me. Dinesh S/o Ballu is resident of village Mohana police station Chhaysa Ballabgarh Faridabad, I and my brother pawan have talked to Dinesh many times about marriage. Which Dinesh said that I will talk to my family members. His family has got his engagement somewhere else and Dinesh has been given me the promise of marriage. Legal action should be taken against Dinesh”

Learned counsel for the petitioner *inter alia* contends that the petitioner is 24 years of age, whereas the victim was 20 years of age at the time of alleged incident. It is submitted that the allegation made in the FIR is that the petitioner enticed the complainant away on the pretext of marriage. Learned counsel states that the first incident, as per the FIR, occurred on 28.4.2022 and it has been admitted that the last incident occurred on 01.7.2023. However, the FIR has been filed more than a year later from the date of first incident. The challan has been filed and the victim and her brother have also been examined before the learned trial Court as PW1 and PW2 respectively, wherein

they both have turned hostile. The prosecutrix, in her testimony (Annexure P-5), has categorically stated that *“I do not want any action against the accused as we both are now ready for marriage with each other. The accused is in custody. In case, he is released from jail, I will get married to him. That we had indulged in physical relations 2-3 times”*. Learned counsel submits that the as per the MLR there is no injury on the person of complainant.

Notice of motion.

On asking of the Court, Mr. Surinder Kumar Dagar, DAG, Haryana accepts notice on behalf of respondent No.1-State and filed the custody certificate dated 12.2.2024. The same is taken on record. Copy thereof is supplied to the counsel opposite.

As per the custody certificate, the petitioner has undergone custody as under-trial for a period of 07 months and 10 days. Learned State counsel on instructions, informs that the FSL Report in the case has been received and the same is positive, and that the DNA report of the petitioner is awaited.

I have heard learned counsel for the parties and gone through the case file carefully.

Without commenting on the merits of the case, however, keeping in view the totality of facts and circumstances of the case, including the fact that the trial of the case is likely to consume considerable time and keeping in view the custodial period of the petitioner; and the fact that there is no other case pending against him, his further custody may not be justified; without meaning any expression of opinion on the merits of the case, it is ordered that the

petitioner-Dinesh s/o Balak Ram @ Balram @ Ballu be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

The petition is allowed.

February 14, 2024
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No
Whether Reportable Yes / No