

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 7735 OF 2024(O&M)

Date of decision : 05.04.2024

Mohd. Naseem

.....Petitioner

vs.

State of Haryana and another

.....Respondents

CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Mrigank Sharma, Advocate
for the petitioner.

Mr. Ayuwan Singh, Assistant Advocate General,
Haryana.

Mr. Abhishek Sobti, Advocate for complainant-respondent No.2

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SUDEEPTI SHARMA J. (Oral)

CRM-9009-2024

This application has been filed for placing on record documents Annexures P-11 to P-13 i.e. copies of the zimini order dated 7.2.2024 passed by the trial Court and testimonies of PW-6 and PW-7, respectively.

In view of the averments made in the application, the same is allowed subject to all just exceptions and documents P-11 to P-13 are taken on record.

Main case.

1. This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR

No. 0019 dated 21.04.2023, under Sections 376(2)(n), 506, 120-B IPC, registered at Police Station Women Police Station, District Yamuna Nagar.

2. Learned counsel for the petitioner contends that the petitioner was arrested on 27.4.2023 and it is a case of runaway couple. He has placed on record a copy of his 'Nikah Nama' with the complainant-victim as Annexure P-2. The complainant-victim has been examined before the trial Court and her examination is placed on record as Annexure P-8. The same is reproduced as under :-

“That I was threatened by his family members and at village Kadiawala also, accused Naseem committed wrong act with me against my will. (Confronted with portion A to A1 of the statement Ex P11 where it is so recorded). I had not got recorded in statement Ex P11 that after one week, accused Naseem took me to Chandigarh on the pretext that he would perform marriage with me or that on 29.05.2022, I gave statement in favour of Naseem that we both live together or that we both started residing at Panipat or that after three months, I came to know that I got pregnant or that brother and sister of accused Naseem came at Panipat alongwith medicine for abortion or that I refused to take the medicine or that they took me to Naraingarh (Gadholi) at the house of Bua of accused, where I was pressurized for abortion or that I was kept in a rented house given by Tayyab at Kala Amb, where Adrish took my signatures on papers on the asking of his mother or

that we again went to a rented house at Panipat where also, accused used to talk with his family members or that when I was pregnant for eight months, accused Naseem left me all alone at Panipat and now I am all alone alongwith my child on road. (Confronted with portion B to B1 of the statement Ex P11 where it is so recorded). I had not recorded in the statement Ex P11 that accused Naseem with the connivance of his parents, on the pretext of marriage, has committed wrong act with me and he left me all alone when I was pregnant (Confronted with portion C to C1 of the statement Ex P11 where it is so recorded). It is incorrect to suggest that accused Naseem has committed wrong act with me in January, 2021 and on 16.05.2022. I have seen statement Ex P5 which bears my signature at point A in English. Volunteered I had made such statement on the pressure of police. It is correct that MLR Ex P10 bears my signature at point A. I have seen, read over and understood the statement Ex P12. Volunteered, no such statement was made by me before the police on 21.04.2023. It is incorrect to suggest that I had made statement Ex P5 and Ex P12 at my own free will. It is incorrect to suggest that today I have deposed falsely in order to protect accused Naseem from legal punishment. It is incorrect to suggest that today I have deposed

falsely due to compromise arrived at with the accused outside the Court.”

3. Learned counsel for the petitioner further contends that the petitioner is in custody since almost one year and petitioner and the victim are married and out of their wedlock, one child is also born, who is at present 1 year and 2 months old. He further submits that out of total 7 prosecution witnesses only 4 have been examined so far, and the conclusion of the trial may take some time. It is submitted that since both the petitioner and victim are married and there is a child also, thus, the petitioner should be released on bail.

4. Learned State counsel, on the other hand, vehemently opposed the grant of bail to the petitioner on the ground that out of 7 witnesses, 4 witnesses have already been examined and the next date before the trial court is 18.4.2024 for examination of the remaining witnesses and in case the petitioner is released on bail, he may influence or threaten the witnesses or may flee away from the process of the Court.

5. Complainant alongwith her counsel, Mr. Abhishek Sobti, Advocate is also present in Court. Her identity has been placed on record.

6. I have heard the learned counsel for the parties and perused the whole record.

7. Keeping in view the above facts and also the fact that conclusion of the trial will take some time and no useful purpose would be served by keeping the present petitioner in custody, I deem it to be a fit case to grant the concession of regular bail to the petitioner.

8. Petitioner Mohd. Naseem s/o Abdul Hassan, is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the

satisfaction of the Trial Court/Chief Judicial Magistrate /Duty Magistrate, concerned.

9. However, the Prosecution will always be at a liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail, in any manner.

10. It is also made clear that any observation made herein above shall not be construed as an expression of opinion of this Court on the merits of the case.

11. Disposed of. Pending applications, if any, also stand disposed of.

05.04.2004
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(SUDEEPTI SHARMA)
JUDGE

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