



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

CRM-M-8565-2023 (O&M)

Reserved on: 09th July 2024

Date of Decision:- 30th August 2024

SHUBHAM

.....PETITIONER

versus

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

(As on the reserved date)

Present: Mr. Aditya Sanghi, Advocate,
for the petitioner.

Mr. Amrik Singh Narwal, D.A.G. Haryana.

HARPREET KAUR JEEWAN, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No. 53 dated 23.07.2022, under Sections 376(2)(N) and 323 IPC, registered at Women Police Station, District Hisar (Annexure P-1).

2. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. The petitioner is in custody since 31.08.2022. The final report ('*challan*') has already been presented before the trial Court and charges have also been framed. The material witnesses have been examined. The conclusion of the trial will take time. The complainant-victim did not appear since she expired on 31.08.2022 due to poisoning.

2.1 It is further contended that despite the fact that FIR was



registered on the statement of the prosecutrix on 23.07.2022, however, the prosecutrix refused for her medical examination by signing an endorsement on the application submitted by the Investigating Officer (Annexure P-3). The prosecutrix also made improvements in her supplementary statement recorded under Section 161 Cr.P.C. on the same day of registration of the FIR i.e. 23.07.2022 (Annexure P-2). The father of the prosecutrix made another statement dated 26.07.2022 (Annexure P-4) and thereafter, medical examination of the victim was conducted on 26.07.2022. The third statement of the prosecutrix was allegedly recorded before the Counsellor on 02.08.2022 (Annexure P-5). However, after 11 days of the registration of the FIR, the statement of the prosecutrix was got recorded under Section 164 Cr.P.C. on 03.08.2022 (Annexure P-6). It is further contended that various statements of the victim have been recorded at different intervals by the Investigating Agency with an oblique motive to falsely implicate the petitioner.

2.2 Learned counsel for the petitioner further contends that after the unfortunate demise of the prosecutrix on 31.08.2022, the family of the prosecutrix, out of vengeance, got registered another FIR No.380/2022 dated 31.08.2022, against the petitioner and his family members under Section 302, 34 IPC. However, after thorough investigation, the allegations were found to be false and cancellation-cum-untrace report dated 28.11.2022 (Annexure P-8) was prepared by the Investigating Agency. It is further contended that even as per the



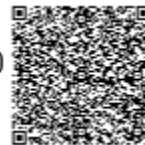
allegations levelled, no offence is made out against the petitioner.

3. Learned counsel for the State has opposed the present petition on the ground of gravity of allegations levelled against the petitioner.

4. Custody certificate dated 08.07.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the petitioner has undergone 01 year, 10 months and 08 days of actual custody.

5. I have heard the learned counsel for the parties and perused the relevant documents.

6. As per the version in the FIR, the prosecutrix and the petitioner met at a shop and thereafter, they started talking to each other. The petitioner promised the prosecutrix to marry her and further assured that he would convince his family members for the matrimonial tie. The prosecutrix was taken to a hotel and the petitioner made physical relationship with her without her consent. The petitioner made physical relationship with her at several other occasions as well and ultimately, the prosecutrix came to know that on 11.05.2022, the petitioner got married to another girl. She went to the house of the petitioner as she wanted to talk to the wife of the petitioner but the petitioner pushed her out of the house and she made a phone call to the Police at Helpline No.112 and got registered the present FIR. In her statement recorded under Section 164 Cr.P.C. on 03.08.2022, the prosecutrix corroborated the version in the FIR besides giving the details of the events already



mentioned in the FIR.

7. Investigation is complete and charges have been framed. Though the petitioner is in custody since 31.08.2022, however, it is not disputed that after about 01 month of the registration of the FIR, the prosecutrix died and the FIR regarding the death of the prosecutrix has been cancelled. Though the prosecutrix had expired, but her statements recorded during the course of investigation are on record.

8. As per the status report dated 27.09.2023, filed by way of affidavit of Sh. Sanjeev Kumar, HPS, Deputy Superintendent of Police, Hisar-II, Hisar, on behalf of respondent-State of Haryana, the material witnesses, including the father of the deceased-prosecutrix and the doctor who conducted her medical examination, are yet to be examined. There are total 16 prosecution witnesses, out of which, only the formal witnesses i.e. Inspector Sunita, Draftsman Raju Walia and the hotel owner Fanish, have been examined.

9. Though this Court is not to give any opinion with regard to the correctness of the cancellation report submitted in the subsequent FIR No.380 dated 31.08.2022, having been registered after the death of the prosecutrix, however, this fact is of considerable importance that the death of the prosecutrix took place after one month of registration of the present FIR and as per the status report, the cause of death is due to poisoning.

10. Keeping in view the above facts and the gravity of allegations levelled against the petitioner and also in view of the fact that



the material witnesses are yet to be examined, the petitioner is not entitled to the concession of regular bail.

- 11. Consequently, the present petition stands dismissed.
- 12. Pending miscellaneous applications, if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

30th August 2024
simran

Whether Speaking : *Yes/No*
Whether Reportable : *Yes/No*