



214 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-8708-2024
Date of decision: 22nd May, 2024

Pawan Sharma
Versus
State of Haryana
...Petitioner(s)
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Saleem Ahmed, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Date	Police Station	Sections
721	12.10.2023	Palla, District Faridabad, Haryana	377, 323, 506 and 34 of IPC and Section 18-D of The Transgender Persons (Protection of Rights) Act, 2019

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 11.10.2023 on receipt of an information from Safdarjung Hospital, New Delhi at Police Station Palla regarding admission of the complainant ‘Y’ (name withheld) who is a transgender, therein due to sustaining injuries and on the allegations of being assaulted, a police party reached at the hospital and received medico legal report of the complainant/victim and anal swabs etc. However, the complainant/victim



was not found to be present there. The complainant reached at the Police Station on 12.10.2023 and lodged a complaint alleging therein that on 09.10.2023, she was present at Bal Vikar Dhara, Badarpur, Delhi, wherein she was working. When the petitioner Pawan Sharma called her on her phone, expressing desire to meet her, she refused to meet him, but on his insistence, she called him in her office. He came to meet her and went back after sometime. Thereafter, while she was going back towards her house, he met her at toll tax barrier near Badarpur and made her board on his motorcycle by assuring to drop her at her house. However, instead thereof, he took her to a hut existing in some fields. He called some person there. On his asking, the said person struck blows with a *lathi* on her legs and thereafter, the petitioner committed the act of carnal intercourse against the order of nature with her, whereas, the other person hurled abuses to her by calling her names and after taking an amount of Rs. 1900/- which she was carrying with her, physically assaulted her and then threw her from that place. On the way, three more persons who were acquaintances of the petitioner met her, who too assaulted her physically.

3. On the above allegations, FIR was registered. Investigation commenced. The statement of the complainant was recorded under Section 164 of Cr.P.C. The petitioner was arrested on 15.10.2023. In his disclosure statement, he nominated the name of the co-accused Bhupender Sharma as the person who had extended beatings and caused injuries to the complainant. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner



along with the co-accused is facing trial for commission of aforementioned offences. He had moved an application for grant of regular bail before the learned Additional Sessions Judge, Faridabad, which was dismissed vide order dated 25.01.2024.

4. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case for extorting money from him. Infact, the petitioner and the complainant were well known and having good talking terms. Complainant has since been examined. There are no chances of petitioner's intimidating the complainant or any other witness. There is unexplained delay of three days in reporting the matter of the police. He is in custody since 15.10.2023. The trial is likely to take time. His further detention would not serve any useful purpose. Therefore, it is argued that the petitioner deserves to be extended benefit of bail.

5. Status report has been filed by respondent-State, as per which, the complainant who is a transgender person, in her statement, recorded under Section 164 of Cr.P.C. had corroborated the allegations levelled in the FIR. Perennial swabs/anal swabs as taken at the time of conducting medical examination of the complainant proved that human semen was detected on the same. Report from the DNA division of FSL is awaited. The allegations against the petitioner are serious in nature. It is also submitted that the complainant has fully supported the version of the prosecution in her sworn deposition. The trial is going at a fast pace. There are chances of petitioner's absconding, if extended benefit of bail. Therefore, it is argued that the



petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

7. The petitioner is alleged to have committed act of carnal intercourse against the order of nature with the complainant who is a transgender person and is also alleged to have caused harm/injuries to the complainant by causing physical as well as sexual abuse. The complainant has since been examined. In her sworn deposition, she has levelled specific allegations against the petitioner which are serious in nature. Trial is going at a proper pace, there is nothing on record to suggest that there would be any undue delay in conclusion of the same. Semen was detected on the swabs taken from the perennial/deep anal portion of the body of the complainant. DNA report is awaited. Keeping in view the gravity of the allegations, the quantum of sentence which may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petition does not deserve to be allowed at this stage. Hence, the petition is dismissed.

8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

22nd May, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |