

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-9181-2024 (O&M)

Date of Decision: 26.02.2024

Sandeep

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Kapish Singla, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

NIDHI GUPTA, J. (ORAL)

CRM-8003-2024

Application is allowed, as prayed for.

CRM-M-9181-2024

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 576 dated 26.07.2023 registered under Sections 328 and 376 IPC at Police Station Kundli, Sonipat.

The aforesaid FIR was registered on the basis of written complaint moved by the prosecutrix herself, which is reproduced as under:-

“To, Mr. SP SAHAB SONIPAT Sir, I am xxxx, daughter of Rajendra, resident of Palla, Delhi. I used to work in Kundli Company, then I started talking to Sandeep, then we both went out on 10/06/2023, and then he took me to a parker hotel and then he seduced me and did wrong things with me. Before I realized what was happening to me, he gave me water to drink. After all this, when I regained consciousness, he told me that I will marry you then he came to meet me on

01/07/2023 still he did all these wrong things with me and then after two days he stopped talking to me and also blocked my number then on 15/07/2023 I lodged FIR against him, the policemen on the contrary told me that first you yourself goes to the hotel and then comes for money to get the report done. The policemen put pressure on me and made me write an agreement and told me that after calling on 182 I will get you inside after getting it done, so I said yes to the marriage and took Sandeep with me. Then Sandeep torcher me a lot and said that I will make you sad and will come after drinking, then I will beat you up and will only drink from what I earn and you will take care of the household expenses, I have given it in writing, so I will marry you only in name. When he has already told me all this, he is already torching me so much, so I do not want to ruin my life by marrying him. He has also done this to me and I want the strictest action to be taken against him.”

Learned counsel for the petitioner, *inter alia*, submits at the time of alleged incident, the prosecutrix was 19 years old; whereas the petitioner was 26 years old. There is unexplained delay of around 46 days in lodging the FIR, as according to the FIR, the alleged date of first incident was 10.06.2023; whereas the FIR was lodged only on 26.07.2023. Learned counsel submits that it is evident from the version recorded in the FIR itself that the prosecutrix herself had gone with the petitioner, therefore, the relationship between the parties, if any, was consensual in nature. Learned counsel for the petitioner further points out that the prosecutrix in the FIR herself had admitted that “*I do not want to ruin my life by marrying him i.e. the petitioner*” and, therefore, no offence under Section 376 IPC as alleged is made out against the petitioner. It is also submitted that the prosecutrix had refused for her medical examination. The petitioner has been in custody since 25.08.2023. 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 submits that the custody certificate of the petitioner has not been received today. However, learned counsel admits that petitioner is in custody since 25.08.2023 and as per his instructions, the petitioner is not involved in any other case. Charges have been framed by the trial Court, however, no prosecution witness has been examined till date. Learned counsel for the State further informs that the prosecutrix in her statement under Section 164 Cr.P.C. has fully supported the prosecution case.

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 including the custody period undergone by the petitioner; and the fact that there is no other case against the petitioner; and also 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-Sandeep S/o Ranjeet Singh 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.

26.02.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No