

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRA-S-724-2024

Date of decision: 09.04.2024

Vikas @ Kasu

....Appellant

V/s

State of Haryana and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Navneet Singh, Advocate for the appellant.
Ms. Priyanka Sadar, AAG Haryana.
Mr. Jarnail Singh Saneta, Advocate
for respondent No.2-complainant.

SUMEET GOEL, J. (Oral)

CRM-15577-2024

For the reasons stated in the application and in view of submission made by learned counsel for the applicant-appellant, the application in hand is allowed as prayed for, subject to just exceptions. Documents appended as Annexures A-1 to A-2 are taken on record. Registry is directed to tag them at the appropriate place.

CRA-S-724-2024

1. Present appeal has been filed under Section 14-A of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 for grant of regular bail to the appellant in case bearing FIR No.516 dated 24.07.2023, registered for the offences punishable under Sections 342, 376(2)(n), 506, 120-B of IPC, Section 6 of POCSO Act and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Section 354-C, 66-E, 67, 67-B of Information Technology Act & Section 3(1) (r), 3(2)(v), 3(1)(w) (i) (ii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Thanesar Sadar,

District Kurukshetra.

2. The case set up in the FIR in question (as set out in the present petition by the appellant) is as follows:-

"12. FIRST INFORMATION CONTENTS:-Copy of application is as under- To, The SHO, P.S. Sadar, District Kurukshetra. Subject- Application for taking legal action against- 1. Neeta w/o SohanLal.2. SohanLal son of Ram Dia. 3.Santro w/o Birbal 4.Sandeep w/o Dinesh 5.Vikas s/o Birbal. 6. Samir son of Subhash Chand Rs/o village Sanwla P.S. Sadar Thanesar, Distt. Kurukshetra, regarding forcibly raping me by luring me, threatening, killing me and kidnaping and flaunting my charm by on the pretext of sending me abroad. Sir, I request that I Komal d/o Sh. Gurdeep Singh, resident of village Sanwla Tehsil Thanesar District Kurukshetraand belongs to Chamar Caste. Neeta w/o SohanLal, caste Jungam who lives near to hour house and similarly, SohanLal son of Ram Dia, also lives near our house. Both of the above have a little work of petting the pigeons of their roof. On that pretext, boys and people of the village keep coming on their roof. Santro Devi w/o Birbal case Jungam r/o village Sanwla who are from the family of Neeta and Sohan, also use to come on the roof on the pretext of pigeons. Suntro said to Neeta and Sohan that setting of Komal be got done with my son Vikas by offering her some greed so that their marriage be performed by getting them running out of the house. Similarly, Neeta and Sohan's best frientSandeep w/o Dinesh r/o Sanwla who is also my Aunt (Mammi) met with them and called me in her house and used to lock me in the room alongwith Kamal Vikas, who kept raping me and said that you will be provided service by sending you abroad and if you tell this toany body, you will be killed. This trend continued for two and a half years and if I protested repeatedly, he threatenedto kill me and also he clicked my bad photos etc in his mobile. Due to which I got scared.. Vikas son of Birbal gave me full confidence in getting a job abroad and said he will all the expenses. Samir son of Subhashcaste Jangam village Sanwla from the family of Vikas son of Birbal, is student of 10+2 in Senior Secondary School Partapgarh, gave the sim No. to Vikas from the Tab provided by the Govt. wherein there are all photos etc. This boy namely Samir tells all my secrets to Vikas and keeps eye of my every activity. When I was harassed badly then I tell all this in my house. Neeta w/o SohanLal, SohanLal son of Ram Dia, Suntro w/o Birbal, Sandeep w/o Dinesh, Vikas, Samir and others are involved in this matter. One girl whose mobile no. is 9896847423 be also traced who is involved with Vikas in bad acts. After I told all this to my family, all the above persons had threatened to kidnap my uncle's son and to kill my family members. If in future any unwanted incident or misshaping happens

with me, my family or relatives, then all above accused would be responsible for this. That my family have kept two golden rings, silver chains of feet, ear tops golden, two pair rings of silver, one golden. NATHLI, two golden chains and about one lakh Rupees, in the house for my marriage, the above accused kept bringing all this by threatening me and accused Vikas has taken loan by mortgaging the same and all the accused have divided the amount in between them. Lastly accused Vikas met me on 18.07.2023 abused me in the name of my caste 'saalichamari' etc and lowed my image. At that time Manju Rani w/o Raj Kumar and Meena w/o Sonu R/o village Sanwla Distt.Kurukshetra were also present at the spot. So you are requested to arrest the above accused after registering the case of forcibly raping, threatening, grabbing the above said ornaments and cash, killing and threating of kidnapping the son of my uncle (mamma), making victim of lust to me on the pretext of sending abroad, so that the life any other girl can be saved from this type bad activities and justice be provided to me. Thanking you. Dated 24.07.2023 applicant- Sd- Komal d/o ShriGurdeep Singh caste Chamar R/o Sanwla, Tehsil Thanesar, Distt. Kurukshetra”

3. Learned counsel for the appellant has argued that the appellant is in custody since 05.08.2023. Learned counsel has further submitted that there was consensual relationship between the appellant and the victim for a period of about 2½ years which is clearly decipherable from the photographs (copy whereof has been appended as Annexure A-1 with the present petition) and whatsapp chats (copy whereof has been appended as Annexure A-2 with the present petition). It has been further argued that the FIR in question is result of fall out of such consensual relationship. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel as well learned counsel appearing for respondent No.2-complainant have opposed the present petition arguing that the allegations raised are serious in nature and thus the appellant does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 08.04.2024 in Court, which is taken

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The appellant was arrested on 05.08.2023 whereinafter investigation was carried out and challan stands presented on 31.01.2023. Total 18 prosecution witnesses have been cited. The victim was partly examined whereinafter an application has been preferred by prosecution under Section 319 of Cr.P.C. for summoning of additional accused which is yet pending adjudication before the concerned trial Court. In view of this, the culmination of trial will take its own time. The rival contention of learned counsel for the parties; as to whether there was consensual relationship between the petitioner and the victim & as to whether the FIR in question is result of fall out of such relationship; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing perceptible has been brought forward to indicate the likelihood of the appellant absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 08.04.2024 filed by learned State counsel, the appellant has already suffered incarceration for a period of more than 08 months.

Suffice to say, further detention of the appellant as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present appeal is allowed. Appellant is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the appellant shall remain bound by the following conditions:-

- (i) The appellant shall not mis-use the liberty granted.

- (ii) The appellant shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The appellant shall not absent himself on any date before the trial.
- (iv) The appellant shall not commit any offence while on bail.
- (v) The appellant shall deposit his passport, if any, with the trial Court.
- (vi) The appellant shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The appellant shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the appellant.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main appeal has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

April 09, 2024
Ajay

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