



Sr. No.252

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

CRA-S-1081-2024
Date of decision: 25th July 2024

VIJAY @ AMANAppellant

versus

STATE OF HARYANARespondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Bishan Dass Rana, Advocate
for the appellant.

Mr. Kirpal Singh Thakur, AAG, Haryana.

None for respondent No.2.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The present appeal has been filed impugning the order dated 24.01.2024, passed by the learned Additional Sessions Judge, Special Court, Kaithal, whereby, the regular bail application of the appellant in FIR No.232 dated 02.05.2022 under Sections 323, 366, 376(2)(n), 506 IPC, 1860 and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Pundri, District Kaithal, has been dismissed.
2. As per office report, respondent No.2 has been served, however, none has put in appearance on her behalf.
3. Learned State counsel has filed status report dated 06.05.2024, by way of affidavit of Sh. Gurwinder Singh, HPS, Deputy Superintendent of Police (AEC), Kaithal, along with documents Annexures R-1 to R-7, on behalf of respondent-State of Haryana. Custody certificate of the appellant dated 24.07.2024, reflecting his period of custody as 01 year, 10 months and 29 days, has also been filed, which

is taken on record.



4. As per the statement of the prosecutrix, recorded under Section 161 Cr.P.C. (Annexure R-1), she is 21 years old. She was having an affair with the appellant for the last 1½ years. The appellant used to extract money from the prosecutrix and threaten her that if she will not pay the money, he will kidnap her three sisters and commit rape upon them. It is further an allegation that the father of the prosecutrix has expired and the appellant used to threaten the prosecutrix and asked her to go along with another person namely Anil.

5. As per the custody certificate dated 24.07.2024, the appellant is in custody for a period of 01 year, 10 months and 29 days and there is no criminal history of the appellant. The appellant is 26 years old and the prosecutrix is also major. There is no apprehension of absconding of the appellant. Statements of all the material witnesses, including the prosecutrix, have already been recorded during the trial. There are total 31 prosecution witnesses, out of which, only 06 witnesses have been examined. Conclusion of trial is going to take time.

6. The Hon'ble Apex Court, in **"Hussain and Another versus Union of India"; 2017 SCC 702**, while dealing with an appeal against the denial of bail pending trial, where the appellants have been in custody for a long period, held that while deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot not be unduly long. The observations by the Hon'ble Apex Court are as under:-

“xxx xxx xxx xxx

11. *Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. This Court has held that while a person in custody for a grave offence may not be released if trial is delayed, trial has to be expedited or bail has to be granted in such cases.*



7. Keeping in view the above facts and also in view of the custody period of the appellant, the present appeal is allowed. The order dated 24.01.2024, passed by the learned Additional Sessions Judge, Special Court, Kaithal, is set aside.
8. The appellant is ordered to be released on regular bail, subject to his furnishing adequate bail bonds with two sureties of Rs.5,00,000/- each, to the satisfaction of the trial Court/Duty Magistrate concerned.
9. Pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

25th July 2024
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>