

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

210

CRM-M-14189-2024

Date of Decision: 22.03.2024

Sunil

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Wazir Singh, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. Akshit Mehta, Advocate for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

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. 245 dated 23.09.2023 registered under Sections 376, 313 and 506 IPC [Section 6 of the Protection of Children from Sexual Offences Act, 2012, Sections 67 and 67B of the Information Technology Act, 2008 and Sections 376(2)(n), 452 and 506 IPC where added later on **and** Section 376 IPC was deleted during investigation] at Police Station Ismailabad, District Kurukshetra.

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

“Respected sir, it is requested that I, Pooja Devi D/O Gopal Sharma, R/O old Bazaar, Ismailabad. Sunil S/O Manga Ram has been harassing me who has made illiciate relationship with me since one years and I have been misused by making

promise of marriage. I have been given a medicine kit two months ago, which was got eaten in his presence and I had been miss cap. He had also prepared my wrong video and also extending threat viral the video. Kindly solve my problem. Initially, he has also harassed me by following me. When we went Bagar last years, who has also harassed me while coming back, by saying if she does not made relationship with me, I will disrespect you. Kindly take strict legal action against Sunil. Now he is denying solemnized marriage with me. My life has been spoiled....”

Learned counsel for the petitioner, *inter alia*, submits that at the time of registration of FIR, the victim was 18-years-old. However, the allegations made therein pertain to 01 year prior to the registration of the FIR. It is submitted that the petitioner and the victim were in a consensual relationship. Learned counsel further refers to the testimony of the victim recorded as PW-1 dated 28.02.2024 (Annexure P-2), wherein she has turned hostile. The petitioner has been in custody since 02.12.2023. The trial is likely to take a long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner be released on regular bail.

Mr. Akshit Mehta, Advocate has put in appearance on behalf of respondent No. 2-complainant and submits Vakalatnama, which is taken on record. Learned counsel for respondent No. 2-complainant has not disputed the aforesaid submissions of learned counsel for the petitioner.

Pursuant to the advance notice, learned counsel for the State has filed custody certificate dated 20.03.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 03 months and 19 days. As per custody certificate, there is no other case against the petitioner. Learned counsel for the State also

reiterates that the victim at the time of commission of alleged offence has stated herself to be above 17 years of age. However, the FIR was registered 01 year later. He further submits that the FSL report is negative.

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 that the perusal of the custody certificate reveals that there is no other case against the petitioner; that material witness victim already stands examined as PW-1; and the fact that conclusion of trial will take considerable time, and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.

The petitioner-Sunil S/o Manga Ram 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.

22.03.2024

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(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No