

2024:PHHC:063149



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

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CRA-S-1568-2024 (O&M)
Date of decision: 07.05.2024

Deepak Alias Deepak Kaushal

....Appellant

V/s

State of Haryana and Another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.Sudhir Rana, Advocate,
for the appellant.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Abhishek Sindhvani, Advocate,
for respondent No.2-complainant.

SUMEET GOEL, J. (ORAL)

1. Present appeal has been filed under Section 14-A of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'SC/ST Act) for grant of regular bail to the appellant in case bearing FIR No.0019 dated 19.03.2023, registered for the offences punishable under Sections 365, 341, 376-D, 506, 328, 342, 34 of IPC, 1860 and Section 3(2)(v) of SC/ST Act, 1989 (during investigation Section 365 of IPC was deleted and Section 341 of IPC was added) at Police Station Women Police Jind, District Jind.



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

“To SHO Sir, Women Police Station, Jind. Subject-with regard to kidnapping from the street, rape and attempt to kill, and threatening, Sir, it is requested that I am Anju, daughter of Madan Lal, caste Balmiki, resident of village Nirjan, Distt. Jind. I am aged about 22 years. I was married to Naresh son of Kitab Singh, resident of village Kharak. Now I have been living with my sister in Punjabi Dharamshala, Jind for the last two months. Today, on 19.03.2023 at around 11.30 AM, I was going to Pooja Tailors (Suit Stitching), at the same time three young boys came in a grey coloured car, forced me to sit in the car and took me to the Housing Board flats in Jind, first made me drink alcohol. Then gave me an intoxicating pill, after which forcefully did wrong act with me. There were three boys in that car, 1. Deepak Brahmin, village Badi Koth, 2. Sahil village Julani, caste Jat and one more boy whose name I do not. All three of them did wrong act with me and locked me in the room. When they went out of the room after some time, I run away to save my life. Then I took the phone from some unknown person and called my elder sister. I and my sister and brother-in-law came to report at Women police Station, Jind. Sd/- Anju Complainant. Anju d/o Madan Lal, village Nirjan, Distt. Jind. Mob. No.9992196431, 87087544693.”

3. Learned counsel for the appellant has argued that the appellant was arrested on 01.05.2023 and the trial is underway. Learned counsel has referred, *in extenso*, to the testimonies of PW-1 (victim) as also PW-2 (brother of the victim) to argue that the prime prosecution witnesses had turned hostile and were so declared by the Public Prosecutor. Learned counsel for the appellant has further argued that though the victim has



chosen to name the present appellant, namely, Deepak @ Deepak Kaushal as a person who had committed sexual assault upon her but the said factum is belied by the fact that the DNA report produced by the prosecution before the trial Court indicates that the semen samples had matched with one Sahil (co-accused) qua whom the victim had turned hostile. Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the appellant does not deserve the concession of regular bail.

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

6. The appellant was arrested on 01.05.2023 whereinafter investigation was carried out & challan stands presented on 07.07.2023. Total 18 prosecution witnesses have been cited, out of which the prime/private witnesses, namely, PW-1 (victim) as also PW-2 (brother of the victim) stand examined. The rival contention of the learned counsel for the parties; the weightage required to be attached to the testimony of the victim, who has turned hostile qua the co-accused, the veracity required to be attached to the call detail records alleged to have taken place between the appellant and the victim as also the DNA report in question (wherein the semen sample of co-accused, namely, Sahil has matched); 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 tangible has been brought forward to indicate the likelihood of the appellant absconding from the process of justice or interfering with the remaining prosecution evidence. As per the custody certificate dated 05.05.2024 filed by the learned State counsel, appellant has suffered incarceration for about 01 year & is not shown to be involved in any other case. Suffice to say further detention of the appellant as an undertrial is not warranted in the facts and circumstances of the present case.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Appellant is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned 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 case has been decided, pending miscellaneous
application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

May 07, 2024
poonam

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