

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

202

CRM-M-20254-2024

Date of Decision: 01.05.2024

Mangal Yadav @ Manga

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Vipin Kumar Sharma, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

Mr. Ravi Malhotra, Advocate
for respondent No. 2-complainant.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 2nd petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 183 dated 13.10.2023 (Annexure P-1) registered under Sections 376 and 506 IPC at Police Station Sadar Jalandhar, District Police Commissionerate, Jalandhar, on the ground that the matter has been compromised between the parties vide compromise dated 10.04.2024 (Annexure P-2).

The aforesaid FIR was registered on the basis of statement of victim/respondent No. 2 herein, which is reproduced as under:-

“Statement of xxxx alias xxxx daughter of Jasbir Singh, resident of Village Sarhali, District Jalandhar. Stated that I am resident of aforesaid address and after doing my +2 class, I am residing at my house. That a Tantrik baba whose name is Mangal Yadav alias Mangal is working at the

house of Sarpanch of our Village namely Jaswinder Singh Bassi as he was residing in the Village, he was known well to me and my family. In March, 2022 Mangal Yadav alias Mangal came to our house and started tell my mother that someone had done witchery (Jadu Tuna) on her daughter and she will commit suicide. Bring her to me and I will perform Puja Path and she would be alright, otherwise you would suffer a big loss. On it my parents got frightened and came into his talks. They took me to Tantrik Mangal Yadav. Mangal Yadav used to sit at a place namely Ichha Dhari which is situated in our Village. On the first day he performed Puja in front of my parents and my parents expressed faith in him. On 02.04.2022, Mangal Yadav alias Mangal Tantrik came to our house and he told my parents that 365 Path have to be perform regarding your daughter and she had to be taken with him. My parents by expressing faith upon him sent me alone with this Tantrik. After this, the Tantrik took me in the fields and he gave five leafs and started doing Withchery (Jadu Tuna) upon me. He started touching upon my head and made me unconscious and then he started removing my cloths on which I resisted to this but on account of enchanting of mantras I became unconscious and when I regained conscious, there was no cloths on my body and I started weeping and I said to the Tantrik that you have committed rape with me and I will told this to my parents. That you have forcibly committed rape with me on which the Tantrik started showing me his phone in which there were my nude photographs and videos and he threatened me that in case I disclose about this to anyone then he would make my nude photographs and videos viral and you would be able to show your face to the society. In this manner he used to continuously took me with him for three months on the pretext of doing Path and used to commit bad act with me. He used to commit rape with me without my consent by giving threats to me due to which I went into deep depression. On 07.09.2023, a phone call was received of Tantrik on my phone and he started bagging before me but at that time I got frightened and then I did not pick his phone call again. Then the Tantrik used to frighten me and used to tease me whenever I used to come out of the house. I have got his recording which I will produce before you. Then I told all this happening to my sister on which my sister told everything to my parents. The aforesaid Tantrik by putting my parents in wrong beliefs used to commit rape with me for three months without my consent and continued to give threats, therefore, I am requesting that immediate legal action be taken against the aforesaid Tantrik Mangal Yadav alias Mangal and justice be done to me. I have got recorded this statement by coming to you in the presence of my uncle....”

Learned counsel for the petitioner, *inter alia*, submits that the allegations levelled in the FIR are utterly false and fabricated. In fact the petitioner and the victim/respondent No. 2 were in a consensual relationship. It is submitted that one of the allegations mentioned in the FIR is that the petitioner had taken objectionable photographs/video of the victim/respondent No. 2. However, during the course of investigation, the mobile phone of the petitioner was taken into possession by the police, but no objectionable photographs/video of the victim/respondent No. 2, as alleged in the FIR were found therein. It is further submitted as per the FIR, the first incident took place in the month of March, 2023, however, the FIR was lodged after an un-explained delay of 07 months i.e. on 13.10.2023. Moreover, now the parties have entered into a compromise dated 10.04.2024 (Annexur P-2). The petitioner has been in custody since 15.10.2023. The trial is likely to take a long time to conclude. No useful purpose would be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner be released on regular bail.

Learned counsel respondent No. 2-complainant has not disputed the aforesaid submissions of learned counsel for the petitioner and admits the factum of compromise between the parties.

Per Contra, learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and submits that at the time of alleged occurrence, the victim/respondent No. 2 was 24 years of age; whereas the petitioner was 56-year-old. It is submitted that the allegations in the FIR are very serious, as it is alleged that the petitioner is a *Tantrik Baba* and had repeatedly committed rape with the

victim/respondent No. 2 for around 03 months under the garb of exorcising evil influences. The cause for delay in lodging the FIR is that the petitioner is a powerful person as he is working in the house of Sarpanch of the village. Learned counsel for the State further contends that the victim in her statement recorded under Section 164 Cr.P.C. as well as in her testimony before the learned trial Court as PW-2 has fully supported the case of the prosecution. On instructions from HC Naranjan Dass, learned counsel for the State informs that out of total 11 prosecution witnesses, 02 witnesses have been examined by the learned trial Court so far.

Learned counsel for the State has filed custody certificate dated 30.04.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 06 months and 18 days. As per custody certificate, there is no other case against the petitioner.

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 perusal of the custody certificate reveals that there is no other case against the petitioner; the fact that material witness i.e. the victim/complainant has already been examined; and also the fact that conclusion of trial will take considerable time as out of total 11 prosecution witnesses only 02 have been examined so far, and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.

The petitioner-Mangal Yadav @ Manga S/o Late Sh. Manki Yadav, 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.

01.05.2024
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(NIDHI GUPTA)
JUDGE

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