

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

204

CRM-M-22149-2024

Date of Decision: 09.05.2024

Deepak Kumar

.... Petitioner

Versus

The State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. L.S. Lakhanpal, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

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. 055 dated 25.05.2023 registered under Sections 450 and 506 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Women, Ballabgarh, District Faridabad.

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

“To SHO, Women Police Station Ballabgarh, Faridabad. It is requested that I Renu W/o Laxmi Sao, R/o Village Naya Tola, Makuna, P.S. Lakhisari, Bihar, presently residing as Tenant at Gali No.4, Yadav Colony, Ballabgarh, Faridabad. That on 24.05.2023, I had gone for work and my daughter had called me to reach home immediately, as I reached at



my home at 4:00 pm, then my daughter namely xxxx who is minor was frightened and she told me that when she came back to home from the school, then a boy namely Deepak S/o Late Sh. Vinod Ram who is our neighbor, had entered in the room and he bolted the room from inside and he committed a wrong act with my daughter and thereafter, Deepak had fled away. Me and my daughter were frightened. My husband was also not present at home. Therefore, today I alongwith my daughter had come to police station and presented a written complaint and necessary legal actions sought to be requested against Deepak, as Deepak extended threat to my daughter that she would be killed, therefore, we are frightened. Therefore, strict legal action be taken against the above said accused.....”

Learned counsel for the petitioner, *inter alia*, submits that the victim and the petitioner were earlier known to each other. At the time of the alleged occurrence, the victim was aged around 17 years, 08 months and 20 days. The victim had asked the petitioner to order some clothes for her online and stated that upon delivery of parcel, she would make the payment. However, the said payment was not made by the victim and in these circumstances, the present FIR came to be registered against the petitioner. Learned counsel for the petitioner refers to the Medico-Legal Report of the victim dated 25.05.2023 (Annexure P-2), wherein it has been recorded (at page 16) that the victim has refused to undergo any test. It is submitted that the challan in the present case was presented before the learned trial Court on 17.06.2023; whereafter charges have been framed against the petitioner on 07.03.2024. The petitioner has been in custody since 25.05.2023. He has widowed mother

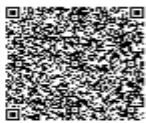


to take care of and the next date of hearing before the learned trial Court is 16.07.2024. It is further submitted that out of total 21 prosecution witnesses, none has been examined so far. The trial is likely to take a long time to conclude. Thus, it is prayed that petitioner be released on regular bail.

Per Contra, learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and submits that the date of incident is 24.05.2023; whereafter medico-legal examination of the victim was conducted on 25.05.2023. Although, the victim had refused to undergo any test, but samples were duly taken in which no semen was detected, but blood was detected. Accordingly, the said blood sample was sent for DNA and the report is still awaited. It is further submitted that the victim in her statement recorded under Section 164 Cr.P.C. has fully supported the case of the prosecution.

Learned counsel for the State has filed custody certificate dated 08.05.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 11 months and 15 days. As per custody certificate, there is no other case against the present petitioner. On instructions from SI Sunil, learned counsel for the State informs that out of total 21 prosecution witnesses, none has been examined by the learned trial Court so far.

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; and also the fact that conclusion of trial will take considerable time as out of total 21 prosecution witnesses, none has 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-Deepak Kumar S/o Vinod, 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.

09.05.2024
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(NIDHI GUPTA)
JUDGE

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