



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
207

CRM-M-22043-2024
Date of Decision:01.07.2024

Shahrukh

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

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

Mr. Aditya Kumar Singla, A.A.G., Haryana.

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. 0018 dated 23.02.2023 registered under Sections 376, 323, 506, 34 IPC and Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019 at Police Station City Tauru, District Nuh.

Learned counsel for the petitioner *inter alia* submits that the present FIR has been registered on the basis of statement of complainant/victim. The petitioner is the brother-in-law of the complainant/victim. The younger brother of the petitioner is married to the complainant and the petitioner is married to the elder sister of the complainant/victim. It is submitted that the allegations made in the FIR are utterly false and fabricated as the same emanate from the matrimonial dispute between the brother of the petitioner and the complainant. It is stated that the entire family of the petitioner has been falsely implicated as in the present FIR itself, the complainant has named her husband, father-in-law and brother-



in-law/petitioner herein. It is further submitted that as per the FIR, the date of alleged incident is 23.05.2022. However, FIR has been filed on 23.02.2023 i.e. after unexplained delay of almost 9 months. Learned counsel for the petitioner further informs that challan in the present case was filed on 26.12.2023; charges were framed on 10.04.2024. However despite that none out of the 12 witnesses have been examined till date. It is stated that the petitioner is behind bars since 23.11.2023 i.e. for 7 months and that there is no case against the petitioner. Charges were framed on 10.04.2024 however in the last three months, no witness has been examined while the petitioner has been languishing in the jail. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that the present petition may be allowed and the petitioner be released on regular bail.

Learned counsel for the State opposes prayer made on behalf of the petitioner and submits that the petitioner in his disclosure statement has admitted to having been committed rape upon the complainant. Learned counsel files custody certificate dated 30.06.2024 which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 07 months and 07 days; and there is no other case pending against the petitioner. On instructions, it is admitted that challan was filed on 26.12.2023 and charges have been framed on 10.04.2024. It is submitted that out of 12 witnesses; none has been examined 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 and the custody period of 07

months and 07 days undergone by the petitioner as an undertrial; and the fact that there is no other case pending against the petitioner as evident from the custody certificate placed on record; as also the fact that the conclusion of trial will take considerable time as out of 12 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-Shahrukh, 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.

01.07.2024

Divyanshi

(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No