



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

202

CRM-M-22064-2024

Date of Decision: 09.05.2024

Virender

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Shashikant Gupta and Mr. Kanhiya Soni, Advocates
for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. Vishal Singh Borwal, Advocate for the complainant.

NIDHI GUPTA, J. (ORAL)

Memo of appearance filed on behalf of the complainant is
taken on record.

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. 37 dated 15.01.2023 registered under Sections 323, 376,
342 and 506 IPC at Police Station Rohtak City, District Rohtak
(Haryana).

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

*“To SHO, Police Station City, Rohtak, Sir, it is submitted
that I am xxxxx daughter of Rajpal Singh is resident of
Durga Colony, Bhiwani. I met Virender namely person on
Facebook and while we were talking to each other, he has*



projected himself to be a person of good links and he told me that he can arrange job for me and I was in need of job. I came in his allurement and he told me to come with all the documents on 10.01.2023 to Old Bus Stand, Rohtak. I went there and after seeing the documents, he again asked me to come on 12.01.2023 and on 12.01.2023, at about 1 pm, he met me near Old Bus Stand, Rohtak and from there, he has taken me to some place which belongs to known and there, he has taken me to one room and he has bolted the room. I objected the same and he had given beatings to me and against my wishes, he had done wrong act with me and he had threatened me if I will narrated or tell this to anybody of killing me and my family members and I returned to my house and kept mum and now also, accused is again and again harassing me. It is humble prayer to you that kindly take strict legal action against the accused and justice may be given to me. I would be highly obliged.”

Learned counsel for the petitioner, *inter alia*, submits that the challan (Annexure P-1) was presented before the learned trial Court on 06.07.2023; whereafter charges have been framed against the petitioner on 09.10.2023. It is submitted that out of total 11 prosecution witnesses, none has been examined so far. Learned counsel for the petitioner also refers to affidavit dated 27.04.2023 (Annexure P-6) duly sworn-in by the prosecutrix/complainant, wherein in para No. 3 thereof, she has stated as follows:-

“3. That on 10-01-2023, I had come to Rohtak on my own free will to meet Virender and on 12-01-2023 also I had come on my own free will to meet Virender and I had gone on my own free will with Virender to the room of Hotel at Rohtak, Virender did not force me to do any wrong thing against my will, neither did he threaten me nor did he beat me.”

It is submitted that the petitioner earlier also had sought regular bail from this Court by way of filing petition bearing CRM-M-43857-2023, which was dismissed as withdrawn by this Court vide order dated 11.09.2023. Learned counsel submits that inadvertently, the



aforesaid affidavit (Annexure P-6) could not be attached with the earlier petition. The petitioner has been in custody since 03.05.2023. 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 serious allegations have been levelled against the petitioner, inasmuch as, it has been alleged that the petitioner had committed rape upon the prosecutrix/complainant on the pretext of giving a job to her. It is submitted that the prosecutrix/ complainant in her statement recorded under Section 164 Cr.P.C. has fully supported the case of the prosecution. However, admittedly, no samples for conducting medico-legal examination were taken from her.

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 01 year and 05 days. As per custody certificate, there is no other case against the petitioner. On instructions from L/ASI Rekha, learned counsel for the State informs that out of total 11 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 11 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-Virender S/o Ompal, 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