



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

204

CRM-M-23378-2024

Date of Decision: 15.05.2024

Mandeep Kumar

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Sumit S. Bairagi, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

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. 243 dated 12.11.2021 registered under Sections 376 and 384 IPC at Police Station City Hoshiarpur, District Hoshiarpur.

The aforesaid FIR was registered on the basis of complaint/application moved by the prosecutrix/respondent No. 2 herein and the brief facts as mentioned in para No. 5 of the impugned order dated 23.04.2024 (Annexure P-2), are reproduced as under:-

“5.Perusal of the record shows that the instant FIR was got registered on application bearing No. 1004-SSP dated 10.04.2021 moved by the complainant/prosecutrix with the allegations that she had met the accused at Baba Vishal Ji, Subhash Nagar, Hoshiarpur in a Satsang in the month of September 2020 and after some time, accused stated that he liked her and wanted to perform marriage with her. But she told the accused that she is already a victim at the hands of her husband and a case is pending before the court between



her and her husband, so she does not wish to perform second marriage. But accused allured her into his sweet talks and he started visiting her house. On 22.10.2020, there was her birthday and accused called her in a Satsang at Banjar Bagh, but she did not go there. Thereafter, accused reached her house at Jagatpura and tried to offer her flower, but she refused to receive the same, due to which she became anger. Thereafter he offered her cold drink in a glass and despite her refusal he forcibly made her to drink the cold drink. After drinking the said cold drink, she became unconscious and accused committed rape upon her. After she regained consciousness, she found herself to be in half naked condition and there was pain in her lower portion. When she met the accused, she told him that she has to report the matter to police, upon which accused showed her nude photographs and video in his phone and threatened her that if she made complaint anywhere, he would viral her photos and video on the social media. In this way, accused started blackmailing her and obtained Rs.40,000/- from her on different intervals. Even after 22.10.2020 accused committed rape upon her after blackmailing her. On 23.02.2020, the mother of the accused, namely, Sukhwinder Kaur has called her to her village and the mother of the accused as well as his wife has demanded Rs. One lac from her and on her refusal, she was given beatings. She got herself admitted at Civil Hospital. Due to threats of accused, she could not disclose the entire facts to the police and she has only disclosed about the beatings given to her by mother and wife of accused. However now the accused has started more blackmailing her and she is defamed in the mohalla as accused in roaming in her mohalla. She has tried to commit suicide. After getting courage, she reported the entire matter to the police.....”

Learned counsel for the petitioner, *inter alia*, submits that the petitioner has been absolutely falsely implicated in the present case. It is stated that the allegations made in the FIR are utterly false and fabricated. Learned counsel submits that respondent No. 2-complainant/prosecutrix is habitual of registering such false FIRs against unsuspecting persons such as the petitioner. In this regard, learned counsel for the petitioner refers to the cancellation report (Annexure P-8) filed by the Investigating Agency, in one such case bearing FIR No. 57 dated



24.06.2023 under Section 376 IPC, Police Station Model Town, Hoshiarpur, wherein factum of other such false FIRs lodged by respondent No. 2-complainant have been noticed (at page No. 30 of the paper-book onwards). The petitioner has surrendered before the learned trial Court on 15.03.2024 and has been in custody since then. There is no other case against the petitioner. The trial is likely to take a long time to conclude. Thus, it is prayed that petitioner be released on regular bail.

On instructions from ASI Kuldeep Singh, learned counsel for the State has admitted the above-stated facts to be true; and further informs that another accused in case FIR No. 130 dated 07.09.2014 registered under Sections 363, 366(A) IPC at Police Station City, Hoshiarpur, has been acquitted, wherein similar allegations have been made against the said accused. Learned counsel for the State has filed custody certificate dated 14.05.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 02 months. Learned counsel for the State informs that challan in the present case has been presented before the trial Court on 20.03.2024 and the next date of hearing before the learned trial Court is 20.05.2024, for framing of charges. There are total 16 prosecution witnesses.

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 trial has not commenced as the same is still at the stage of framing of charges,



therefore, its conclusion will take considerable time; and no useful purpose would be served by further detention of the petitioner in custody. Thus, the present petition is **allowed**.

The petitioner-Mandeep Kumar S/o Sukhdev Kumar, 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.

15.05.2024
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(NIDHI GUPTA)
JUDGE

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