



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CRM-M-23014-2024

Date of Decision: 13.05.2024

Rajesh Maharaj

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Shreenath A. Khemka, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. Govind Chauhan, Advocate for respondent No. 2-victim.

NIDHI GUPTA, J. (ORAL)

Memo of appearance filed on behalf of respondent No. 2-victim/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.158 dated 15.09.2021 registered under Sections 376(2)(n), 328, 384 and 506 read with Section 34 IPC at Police Station Women, Karnal.

The aforesaid FIR was registered on the basis of a complaint moved by respondent No. 2/victim herself, which is reproduced as under:-

“.....Regarding legal action against accused Rajesh Maharaj s/o Mohar Singh r/o Village Motia Jagir and Accused No. 2 Babita w/o Pawan r/o Village Motia Jagir. Respected Sir, it is requested that I am xxxx w/o Bablu r/o Village Sagga,



Distt. Karnal and I am peace love and law abiding citizen and prays as follows: 1. That my marriage took place on 19.02.2007 with Bablu s/o Sibla Ram r/o Village Sagga and on 17.11.2008 my son namely Bharat was born. On 11.11.2015 my son Bharat met with an accident and due to injuries he went into comma whom we admitted for some days in Arvind Hospital, Karnal but when there was no recovery in his health then he was admitted in PGI, Chandigarh. 2. That I was very stressed due to the condition of my son and there was no relief despite the best medicines from best doctors. Then all of sudden one day accused No. 2 came to me and told me that accused No. 1 namely Rajesh is a renowned Occultist and he is very well known to your husband. He has sent me to you by saying that your problem needs occult rituals alongwith medical care. Accused No. 2 disclosed that Rajesh has cured thousand of such cases, you must go there and get yourself treated. That I believed her for the reason that any how my son could get some relief. That I told all these things to my husband and then he told me that neither Rajesh is a good man nor he has any knowledge of rituals. Do not belief him. That accused No. 2 started visiting my place regularly after some days and started enticing me for getting the rituals done from Rajesh and as I am a Hindu woman and believe in rituals and I did not considered the rituals being performed by the above named to be wrong and while looking after the future of my son I went alongwith accused No. 2. 5. That the accused has built a Dargah near his home where he performs rituals and on every Thursday gathering is held. I could not understand the motive of the above named accused persons as I was stressed due to the condition of my son so the above named accused namely Rajesh started calling me gathering on every Thursday and started keeping Roza and reading Namaaz and made fun of my religion. After some months accused pressurized me that you could not leave the rituals in the mid and started pressurizing me for sacrificing a child to which I clearly refused and said that I cannot do this. 6. That in the Month of February, 2017 on 2nd Thursday above named accused No. 1 called me through Babita for worshipping and as a reached there both the accused persons gave me Halwa in offerings in which some intoxicant was already mixed and on eating the same I went into a bit unconsciousness and the accused persons took me to the adjoining room and Babita was asking Rajesh that she is unconscious you can do sex with her. I was listening and understanding all the things as I was a bit conscious and taking the advantage, accused No. 1 raped me against my wishes, I cried and tried to put him away but the accused did not mend his ways and I was in search a state of mind that I



knew what is going on with me. Somehow I manage to put on my clothes and told the accused I will disclosed that to everyone but accused had already made a video in his mobile which he show me and told me that if you will disclose anything to anyone then I will viral this video on internet and he committed rape upon me several times by blackmailing me. On 03.10.2017 accused demanded Rs. 2 lacs from me and said that if you will not pay the money then I will send you video to your husband your I got frightened and somehow arranged Rs. 80,000/- and transferred the same in the account of accused Rajesh. That even after this incident, the accused persons extorted a lot of cash and jewellery from me by blackmailing me. I was very stressed due to all this things and yesterday i.e. on 14.09.2021 accused Rajesh came to my home and gave me a news paper and asked me to read it but when I opened the news paper, I got a stoniest as he had given me a nude photo of mine after extracting the same from the above mentioned video and said that if you will not come to Karnal on my asking then I will viral your video and photos on internet and will eliminate your family. I disclosed everything to my mother and told her that Rajesh is harassing me a lot, blackmailing me, I wish to commit suicide, you should take care of my children and grow them up. My mother tried to make me understand and asked me to given complaint to the police by keeping faith in the Law. Therefore, it is prayed that above accused No. 1 had committed rape upon me against my wishes by giving me intoxicant and by blackmailing me for a number of time and accused No. 2 had helped him. My video be got deleted from the accused and by taking necessary legal action against the accused persons justice be done to the applicant....”

Learned counsel for the petitioner, *inter alia*, submits that even as per the FIR, the last incidence of rape allegedly committed by the petitioner upon the victim/respondent No. 2, was in February, 2017; however, the present FIR has been lodged after around 4½ years of occurrence, only on 15.09.2021. Nothing has been stated in the FIR explaining the aforesaid delay of around 4½ years in lodging the FIR.

Learned counsel for the petitioner submits that in the FIR, allegations have also levelled against the sister-in-law/*Bhabhi* of the



petitioner. However, upon investigation, only the petitioner has been summoned in the matter. Accordingly, respondent No. 2-victim had filed an application under Section 319 Cr.P.C. before the learned trial Court for summoning co-accused/sister-in-law/*Bhabhi* of the present petitioner. The said application was dismissed by the learned trial Court vide order dated 17.04.2023 (Annexure P-9), wherein in para No. 9 (at page 45 of the paper-book) very serious observations have been made by the learned trial Court against respondent No. 2, which reads as follows:

“9. It is seen that the complainant has been making contradictory statements before different forums. In her statement recorded before the learned Magistrate which is Ex. P2, the complainant has submitted that the accused Rajesh and Babita had called her for performing hawan on a Sunday and offered some parsad and after consuming the same, she became unconscious, while in her complaint Ex. P1, she submitted that accused had called her and offered parsad on the second Thursday of the month of February 2017. The complainant was about 34 years of age when her medical examination was conducted and about 28 years of age, when the first incident of rape allegedly took place in the year 2017. The complainant remained quite for a long period of 4 years. She preferred to go to the Tantrik Rajesh Maharaj even after being stopped from going by her husband. In the medical report of the complainant, it has been mentioned that the last sexual assault upon the person of the complainant was of the year 2017. No video clipping was ever recovered from the accused Rajesh Maharaj during investigation on the basis of which he had allegedly blackmailed the complainant to ravish her again and again and also demanded money from her. In his disclosure statement dated 15.09.2021, the accused Rajesh Maharaj does not talk about the involvement of Babita. He rather submitted that the complainant ‘A’ had herself approached him for the treatment of her son. He further stated that Babita does not know anything about his relationship with the complaint.”

Learned counsel argues that in view of the observations made above, it is clear that the allegations against the petitioner in the FIR are utterly false



and fabricated.

Learned counsel for the petitioner further refers to a complaint dated 28.08.2021 (Annexure P-2) moved by the husband of respondent No. 2-victim against the petitioner with the allegations that the petitioner had extorted about Rs.50-60 lakhs from the husband of respondent No. 2-victim. It is stated that upon investigation, the said complaint was filed by the Investigating Agency vide report dated 14.10.2021 (Annexure P-3). It is submitted that it is during this period just prior to closure of aforesaid complaint (Annexure P-2), that the respondent No. 2 lodged the present FIR against the petitioner. It is further pointed out that upon an application moved by the prosecution husband of respondent No. 2, namely, Bablu Rana has been given up as PW.

Further, learned counsel for the petitioner submits that petitioner has been in custody since 15.09.2021 i.e. for almost 03 years. All material witnesses have been examined including the victim/complainant. The trial is likely to take a long time to conclude. Thus, it is prayed that petitioner be released on regular bail.

On the other hand, learned counsel for respondent No. 2-victim/complainant vehemently opposes the prayer for grant of regular bail to the petitioner and submits that a petition under Section 13 of the Hindu Marriage Act, 1955, is pending adjudication between respondent No. 2-complainant and her husband before the learned Family Court, concerned. It is further submitted that material witness i.e. the mother of the victim is yet to be examined.



Learned counsel for the State also vehemently opposes the prayer for grant of regular bail to the petitioner and refers to the allegations made in the FIR (at page 21 of the paper-book), wherein it has been stated that on 14.09.2021, the petitioner had gone to the home of the victim/respondent No. 2 and had given her a wrapped news paper to read and when respondent No. 2 opened the newspaper, she found her nude photograph. However, learned State counsel admits that mobile phone of the petitioner was taken into possession by the police, but the FSL report in respect of the same is still awaited.

At this stage, learned counsel for the petitioner refers to the order (Annexure P-9) passed by the learned trial Court, dismissing the application moved by the complainant under Section 319 Cr.P.C., to submit that the learned trial Court had observed therein that *'No video clipping was ever recovered from the accused Rajesh Maharaj during investigation on the basis of which he had allegedly blackmailed the complainant to ravish her again and again and also demanded money from her'*.

Learned counsel for the State has filed custody certificate dated 09.05.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 02 years, 07 months and 20 days. On instructions from SI Ramesh, learned counsel for the State informs that out of total 14 prosecution witnesses, 04 witnesses have been examined by the learned trial Court so far.

Perusal of custody certificate reveals that the petitioner is involved in two more cases i.e. (i) Court Complaint No. MACP/425/2021



dated N/A, U/s not shown; and (ii) FIR No. 569/2021 dated 25.12.2021 registered under Sections 380, 420 and 506 IPC at police Taraori, Karnal. Learned counsel for the petitioner informs that both the aforesaid cases stand cancelled against the petitioner, as is evident from the order dated 13.09.2022 (Annexure P-10) passed by the learned Judicial Magistrate Ist Class, Karnal.

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 of 02 years, 07 months and 20 days undergone by the petitioner as undertrial; and the fact that material witnesses i.e. the victim has already been examined; and also the fact that conclusion of trial will take considerable time as out of total 14 prosecution witnesses only 04 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-Rajesh Maharaj S/o Mohar Singh, 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.

13.05.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No