



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CRM-M-23556-2024

Date of Decision: 15.05.2024

Deepak @ Lalit

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Saleem Ahmed, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. Aazam Khan, Advocate for the complainant.

NIDHI GUPTA, J. (ORAL)

Vakalatnama filed on behalf of the complainant is taken on record.

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. 352 dated 10.08.2023 registered under Sections 376, 328, 365 and 506 IPC at Police Station SGM (Sanjay Gandhi Memorial Nagar), Faridabad.

The aforesaid FIR was registered on the basis of statement of the victim herself, which is reproduced as under:-

“Statement of xxxx daughter of Sanjeev Kumar Arora, resident of House No. 577 Street no. 320, 30 feet Road, Block-A, SGM Nagar Faridabad, aged 19 years, Class 6th passed Mobile No. 9654397901. It is stated that I am



resident of above mentioned address. My date of birth is 13.05.2004 and studying in Giandeep School No. 3, NIT Faridabad in 7th Class. We are two sisters and I am younger one. That my family members have taken online loan of Rs.10,000/- and a boy namely Lalit used to come to our house for collecting EMI of the loan and EMI of that loan has been completed about two months ago. Lalit was following me since 15 days, when we go to the school and many times Lalit has asked me to go with him and I denied to go with him and Yesterday, on 08.08.2023 at about 8.30 AM, when I left my house for school then Lalit was sitting in a car standing at the corner of street and he asked me to sit in the car and firstly I denied to sit in the vehicle and then Lalit has caught my hand and get me sit in the vehicle and after sitting in the vehicle, he has given some toffee type thing to eat and I eat that and after eating that I become dizzy and thereafter he took me towards the Badkhal in a hotel, whose name I don't know and nor I know about the place where that hotel was. Only Lalit can tell that in which hotel he took me. In that Hotel, Lalit has committed bad act or raped upon me forcibly and thereafter Lalit dropped me near our street and while going he threatened me that if, I told this to anyone or police he will kill me and my family members.....”

Learned counsel for the petitioner, *inter alia*, submits that the petitioner and the victim were in a consensual relationship. As per the version in the FIR, the victim was around 19-year-old at the time of alleged occurrence. It is submitted that the victim in her statement recorded under Section 164 Cr.P.C. has not disclosed anything about forcible physical relations by the petitioner; but in her statement before the Legal Aid Counsel, the victim had levelled the allegations qua



initiation of forcible physical relations by the petitioner. Learned counsel for the petitioner refers to the testimony of the victim (Annexure P-3) (at page 25 of the paper-book), wherein the victim while appearing in the witness-box as PW-1 before the learned trial Court, has turned hostile. She stated that *'I had consented for the physical intercourse with me. That was the first time we met. We never met thereafter also. That my family came to know about our messages. I did not meet him thereafter'*. The petitioner has been in custody since 11.08.2023. The trial is likely to take a long time to conclude as out of total 16 prosecution witnesses, only 01 has been examined, so far. Thus, it is prayed that the petitioner be released on regular bail.

Learned counsel for the State has filed custody certificate dated 13.05.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 09 months and 03 days. As per custody certificate, there is no other case against the petitioner. Learned counsel for the State does not dispute the aforesaid submissions of learned counsel for the petitioner. On instructions, learned counsel informs that out of total 16 prosecution witnesses, only 01 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; including the custody period of 09 months and 03 days undergone by the petitioner as an undertrial, and perusal of the custody certificate reveals that there is no other case against the petitioner; and the fact that material witness i.e. the



complainant/victim has already been examined; and also the fact that conclusion of trial will take considerable time as out of total 16 prosecution witnesses, only 01 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 @ Lalit S/o Kamraj 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