



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

208

CRM-M-24996-2024

Date of Decision: 22.05.2024

Vikas

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Anshuman Dalal, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, 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. 124 dated 28.09.2023 registered under Sections 376(2)(n), 328, 384, 406 and 506 IPC at Police Station Women Central, Faridabad, District Faridabad, Haryana.

The aforesaid FIR was registered on the basis of complaint moved by the victim herself and the brief facts as mentioned in para No. 7 of the impugned order dated 02.05.2024 (Annexure P-1), are reproduced as under, which is reproduced as under:-

“7. In brief, the prosecution case was that the complainant (prosecutrix), was a widow and mother of 12 years old daughter. Her husband had expired eight years ago. On 21.03.2022, her friend had arranged a birthday-party of her son, in a Farm House at Gurugram, where even



she was invited along with her daughter. They attended the afore said birthday-party, and met Vikas Gandhi through her friend. He tried to become friendly with her and claimed himself, to be unmarried. He had asked to share her mobile phone number with him also and started talking to her, thereafter. He also started talking about his marriage plans with her while assuring that her daughter would also get support of a father in her life but she refused. That on 05.04.2022 when she had gone to Chandigarh to meet her Advocate, she was called on mobile phone by Vikas asking her whereabouts, which she informed him and, he called her, for breakfast, at a hotel, where he was also staying in Chandigarh. She agreed to meet him and at the time of their meeting in a Hotel, she was offered tea and water on drinking which she became unconscious and by taking undue advantage of her condition, he raped her. When she regained her consciousness he disclosed everything to her and also, that he had prepared her obscene photos and videos and that in case she did not accede to his demand, he would ruining her life and that of her daughter's. Thereafter, he had been indulging in physical relations with her, forcibly and even extorted a sum of Rs.29-30 lakh while blackmailing her. She had given huge amount of cash and even her gold ornaments, to him, at Rohtak, Gurugram, Bhiwani and other places. The last incident reported was of 27.09.2023, where she was sexually exploited even at a Government Rest House, at Faridabad, but he refused to delete her objectionable photos and videos available with him and ultimately, she lodged a complaint against him."

Learned counsel for the petitioner, *inter alia*, submits that the petitioner is 37 years of age and the alleged victim in the present case who is also the complainant herein, is a 36-year-old widow lady. The



petitioner and the victim were in a consensual relationship. It is submitted that the allegations levelled in the present FIR are utterly false and fabricated and the complainant is habitual of filing such false FIRs. In this regard, learned counsel for the petitioner refers to FIR No. 0004 dated 05.01.2022 (Annexure P-2) registered under Sections 376(2)(n) and 506 IPC Police Station Women, Ballabgarh, District Faridabad, lodged by the complainant/victim herein against another person, namely, Ravinder Bhati. Learned counsel states that in the said FIR, the complainant/victim had turned hostile, as a result of which proceedings under Section 344 Cr.P.C., have been initiated against her in which the complainant/victim was duly convicted vide judgment dated 27.02.2023 (Annexure P-3), passed by the learned Additional Sessions Judge, Faridabad.

Learned counsel further submits that as per the present FIR there are 15 occurrences which are alleged to have taken place of which the first occurrence is alleged to have take place on 05.04.2022. In this regard, learned counsel for the petitioner refers to the Attendance Register (Annexure P-4) to submit that the petitioner is a Government employee and working in a Government Bank and from the aforesaid Attendance Register (Annexure P-4), it is evident that on 05.04.2022, the petitioner was very much present on duty.

Further, learned counsel for the petitioner refers to the *zimni* orders passed by the learned trial Court in the present case (Annexure P-5, Colly.), wherein from 13.02.2024 till 23.04.2024, the complainant/victim had failed to appear before the learned trial Court on various dates,



despite the fact that bailable warrants have been issued against her; and she had finally appeared before the learned trial Court on 24.04.2024 and on the said date too, she had pleaded for long date preferably in the month of June, 2024. Accordingly, it is clear that the complainant/victim is trying to delay the trial. In this regard, learned counsel for the petitioner submits that the complainant/victim had first filed an application seeking direction to the Investigating Officer for making the pen-drive as a part of challan filed under Section 173 Cr.P.C., which was dismissed by the learned trial Court vide order dated 05.04.2024 (Annexure P-6); and has now filed another application under Section 311 Cr.P.C., in an attempt for further delay the trial. The petitioner has been in custody since 29.09.2023, therefore, trial will take considerable time to conclude. Thus, it is prayed that the 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, the petitioner had allured the complainant/victim on the pretext of marriage and had committed rape upon her. The petitioner had also threatened the victim/complainant that he will viral her obscene videos. However, it is admitted that there is no report qua the device(s) submitted by the petitioner. The date of last incident is 27.09.2023 and the medico-legal examination of the victim/complainant was conducted on 10.10.2023. The FSL report qua exhibits submitted by the victim is still awaited.

Learned counsel for the State has filed custody certificate



dated 21.05.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 07 months and 23 days. As per custody certificate, there is no other case against the petitioner.

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 07 months and 23 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 also the fact that conclusion of trial will take considerable time, and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.

The petitioner-Vikas S/o Late. Attar 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.

22.05.2024
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(NIDHI GUPTA)
JUDGE

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