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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24830-2024

Date of Decision: 09.09.2024

YOGI BABA BHUDH NATH

...Petitioner

Vs.

STATE OF HARYANA

...Respondent

CORAM:- HON'BLE MRS. JUSTICE NIDHI GUPTA

Present: Mr. Onkar Batalvi, Advocate,
Mr. Sourabh Kaushik, Advocate,
Mr. Daman Batalvi, Advocate and
Mr. H.S. Sandhu, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

NIDHI GUPTA, J. (Oral)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 283 dated 17.11.2013 registered under Sections 328, 376 and 506 IPC, at Police Station Jui Kalan, Bhiwani, District Bhiwani.

2. Learned counsel for the petitioner, *inter alia*, submits that the present FIR has been registered on the basis of statement made by the victim herself wherein she has alleged as follows:

“To, SHO Sir Police Station Jui Kalan, Sir, the request is that I am Indu, daughter of Ramphal, resident of village Asahvas Mahreta. I am married to Jabir S/O Prithvi, resident of village Gudha, Gudha district Jhajjar, I have three daughters. I am 34 years old. On 15-11-23, my mother Satwanti had called me that you come here to Asalwas Marehatha, you have to pray and come to give the money for the langer (Bhandara), so on the request of my mother, I came to my home alone in my village Asalwas Marehatha. On 16-11-23, my mother and

I went to the temple. My mother started feeding wheat etc. to the birds. I went to Baba in the temple. Baba gave me Bhabhuti, after that I did not know where I was, I became unconscious and when I opened my eyes, Baba raped me. I told everything to my mother and Baba even threatened me that if I told anyone, he would kill me. Then my mother and I came home. Strictest action should be taken against Baba. Baba's name is Budhnath. Action should be taken.”

3. Learned counsel for the petitioner submits that the allegations made in the FIR are absolutely false and fabricated. In fact the petitioner and the victim (who is 34 years of age), were in consensual relationship. The petitioner used to help her monetarily. It is only when he withheld the monetary gifts to the complainant, the present FIR came to be registered. It is submitted that victim/complainant is a married lady having three daughters. As the petitioner and the complainant were in a consensual relationship, all allegations of rape made in the FIR are unsustainable. Learned counsel also refers to the evidence led by the mother of the victim as PW-4, who in her testimony, Annexure P-1, at page no. 17 of the paper-book has stated that '*Baba also used to help us. Self stated that baba held others also.....It is correct that Baba is decent person*'. Accordingly, it is prayed that the petitioner be released on regular bail.

4. Per contra, learned counsel for the State opposes the prayer made on behalf of petitioner and submits that victim in her statement made under Section 164 Cr.P.C. as also in her testimony as PW-5 has supported the prosecutrix case. Even the other material witnesses being mother of the victim as PW-4, and husband of the victim as PW-3 have supported the prosecution case. FSL report is positive and DNA report is

pending. Learned State counsel on instructions from ASI Uday Lohan, informs the Court that out of 17 witnesses, 10 have been examined. Learned counsel for the State has filed custody certificate dated 07.09.2024 which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 09 months and 19 days. Perusal of the custody certificate shows that no other case is pending against the petitioner.

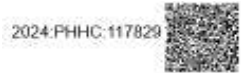
5. I have heard learned counsel for the parties. Without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case, including: (a) custody period of 09 months and 19 days undergone by the petitioner as an undertrial; (b) perusal of the custody certificate reveals that there is no other case against the petitioner; and (c) that out of total 17 prosecution witnesses, 10 have been examined, therefore, 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**.

6. The petitioner-Yogi Baba Bhudh Nath, 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.

7. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

09.09.2024

(NIDHI GUPTA)



CRM-M-24830-2024

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Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No

JUDGE