



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

203

CRM-M-26129-2024

Date of Decision: 28.05.2024

Rajbeer Singh @ Shiyari

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. H.S. Kehal, 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. 24 dated 06.04.2023 (Annexure P-1) registered under Sections 376, 342 and 506 IPC at Police Station Jhander, District Amritsar.

The aforesaid FIR (Annexure P-1) was registered on the basis of statement of the victim herself and the same is reproduced as under:-

“Statement of xxxx w/o xxxx resident of village Vachoa Tehsil Ajnala, District Amritsar rural aged about 21 years mobile no. 8699169086. Stating that I am resident of the above address and working as house maker. I got married three years back and my husband is a carpenter. On 31-03-2023 I took some money from my husband for purchasing clothes from Fatehgarh Churrian and at about 11:00 am Rajbeer Singh @ Shiyari s/o Guggu resident of Vachoa came from behind on his motorcycle and said that if she



want to go to Fatehgarh Churrian then she may come with him. I took lift from Rajbeer Singh but Rajbeee Singh turned his motorcycle towards Amritsar. I said him again and again that I want to go to Fatehgarh Churrian but Rajbeer Singh did not stop his motorcycle instead gave me threats to kill me and my family. I got very scared and kept sitting on the back of the motorcycle. Then said Rajbeer Singh took me to some unknown place where Rajbeer Singh committed rape with me again and again and confined me in one room where Rajbeer kept committing rape with me for four days. Then on date 04-04-2023, Rajbeer Singh took me on motorcycle and dropped at bus stand Fatehgarh Churrian. I took mobile from a stranger and called upon my husband and told him about whole incident. My husband took me from bus stand. Till now we did not talk with anyone about this incident due to humiliation. But now along with my husband xxxxxx I was coming to you for getting statement recorded.”

Learned counsel for the petitioner, *inter alia*, submits that the victim/complainant is a married woman. In actual fact, the petitioner and the victim/complainant were in a consensual relationship. Therefore, the allegations made in the FIR are utterly false and fabricated. It is alleged in the FIR that on the date of incident i.e. 31.03.2023, the petitioner had offered a lift to the victim/complainant and then taken her to some un-known place, where he had confined her for 04 days and committed rape upon her. Learned counsel for the petitioner submits that the said allegation is on the face of it unbelievable as no missing complaint/report has ever been lodged by the husband of the victim even though, she had allegedly gone missing for 04 days. Learned counsel for the petitioner further refers to the statement/self declaration of the victim/complainant dated 01.05.2024 (Annexure P-3), wherein in para 2, she had stated that “... *she was pressured and forced to depose against Rajbeer Singh @ Shiyari S/o Parwinder Singh @ Gaggu because my husband was against the friendship of me and Rajbeer Singh @ Shiyari,*



so my husband forced me to give false statement before the police against Rajbeer Singh @ Shiyari S/o Parwinder Singh @ Gaggu to lodge the said FIR. In para 3 of the said statement she has further stated that “she has no objection if the above said FIR is quashed/cancelled by the Hon’ble Court.....”. The petitioner has been in custody since 30.09.2023. 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.

Learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and submits that the victim in her statement recorded under Section 164 Cr.P.C., has fully supported that case of the prosecution and stated that she was abducted by the petitioner on 31.03.2023 and returned on 04.04.2023; and her medico-legal examination was conducted on 07.04.2023. However, admittedly, the FSL report is negative.

Learned counsel for the State has filed custody certificate dated 27.05.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 08 months and 02 days. On instructions from ASI Kuldeep Singh, learned counsel for the State has informed that challan in the present was filed on 21.10.2023 and charges are yet to be framed.

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 i.e. 08 months and 02 days as an undertrial 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-Rajbeer Singh @ Shiyari S/o Parwinder 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.

28.05.2024
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(NIDHI GUPTA)
JUDGE

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