



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CRM-M-26904-2024

Date of Decision: 30.05.2024

Rohit @ Golu

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Rajat Mor, 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. 539 dated 29.10.2023 (Annexure P-1) registered under Section 346 IPC (Sections 363 and 366-A IPC were added subsequently and Section 346 IPC was deleted later on) at Police Station Bhiwani City, District Bhiwani, Haryana.

The aforesaid FIR (Annexure P-1) was registered on the basis of a complaint moved by the father of the victim, which is reproduced as under:-

“To the Incharge, Police Post BTM Bhiwani. Sir, I Nand Lal S/o Sh. Raj Kishore, is resident as tenant in the house of Dharampal Nandal at Sewa Nagar, Bhiwani and I am



having 4 children. xxxx aged 14 years is my 3rd child and she is student of 9th standard. On 28.10.2023 at about 6:30/7:00 pm, she went away for waling from the house. We have searched her everywhere, but not found. It is requested that my daughter xxxx be traced. She is wearing black colour lower and T-shirt, she was wearing sleeper in her feet. My daughter xxxx be got recovered as early as possible.....”

Learned counsel for the petitioner, *inter alia*, submits that the petitioner was not named in the FIR. Initially, the present FIR (Annexure P-1) was registered under Section 346 IPC which is a missing person report. It is stated that during investigation, the victim was recovered from the house of one Ram Nath on 01.11.2023, who has not been cited as prosecution witness. Upon recovery, statement of the victim under Section 164 Cr.P.C. was recorded on the same day which is reproduced (at page 12 of the paper-book) in the copy of reply dated 14.05.2024 (Annexure P-2) submitted by the police; wherein the victim had stated that on the date of incident i.e. 28.10.2023 at about 6:30 pm, she had willingly gone with the petitioner without any pressure. It is submitted that mother of the victim as well as the victim in their testimonies as PW-3 and PW-4 (Annexures P-5 and P-6 respectively) before the learned trial Court have not supported the case of the prosecution and have turned hostile. Mother of the victim in her testimony as PW-3 (Annexure P-5) has stated that the victim has refused for medical examination by stating that nothing wrong has happened with her and she does not want to state anything.

Further, learned counsel for the petitioner stated that even



the victim in her statement dated 01.11.2023 (Annexure P-3) before the Legal Aid Counsel, has not supported prosecution case and has reiterated whatever she has stated in her statement recorded under Section 164 Cr.P.C. that on the date of incident she had left her house of her own accord and that she does not want to go with her parents. The petitioner has been in custody since 01.01.2024. Thus, it is prayed that the petitioner be released on regular bail.

Per Contra, learned counsel for the State has filed custody certificate dated 28.05.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 04 months and 27 days. Perusal of the custody certificate shows that no other case is pending against the petitioner. On instructions from L/ASI Manju, learned counsel for the State does not deny the aforesaid submissions of learned counsel for petitioner. It is further submitted that after recording the statement of the victim under Section 164 Cr.P.C. on 01.11.2023, offences under Sections 363 and 366-A IPC were added. Learned counsel for the State also informs that out of total 13 prosecution witnesses, 05 witnesses have 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 peculiar facts and circumstances of the case; including the custody period of 04 months and 27 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-Rohit @ Golu S/o Rajender, 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.

Pending application(s), if any, shall also stand disposed of.

30.05.2024
rishu

(NIDHI GUPTA)
JUDGE

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