



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

203

CRM-M-27523-2024

Date of Decision: 31.05.2024

Raghvender @ Raghvendra

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Baljeet Beniwal, Advocate for the petitioner.

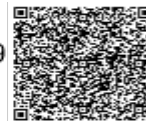
Mr. Surinder Kumar Dagar, DAG, Haryana.

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. 303 dated 20.07.2023 registered under Sections 376 and 506 IPC at Police Station Gadpuri, District Palwal.

The aforesaid FIR was registered on the basis of complaint moved by the father of the victim which is reproduced as under:-

“To, Police Post In-charge, Dhatir. Sir my request is that I K....., resident of Pahad Colony, Sohna, District Gurugram, My daughter xxxx, who was living since childhood with Maternal Grandfather R.. S/o Khachedu, resident of Atarchata; My daughter was working in Asian company at Dhatir for two months. On 18.07.2023, she had not gone for duty in her ASEAN company and had stayed at her maternal grandfather's house in Atarchatta. At around 9 O'clock she left the house of her own free will and without any explanation. That my girl wearing yellow suit, yellow salwar and yellow Scarf. Colour wheatish, round face, strong body, healthy body, height 4 feet 8 inches, age 21 years. You are requested to search for my missing girl and take legal action.....”



Learned counsel for the petitioner, *inter alia*, submits that the victim in the present case is around 20 years of age. Initially, the present FIR was filed under Section 346 IPC which is a missing person report. It is submitted that in actual fact, the petitioner and the victim were in a consensual relationship. The victim had stayed with the petitioner for around 02 months on her own free will and accord; and after 02 months, she had returned back to her house on 13.09.2023; whereupon on 19.09.2023, statements of the victim under Sections 161 and 164 Cr.P.C. (Annexure P-1 and P-2, respectively) were recorded, wherein she has falsely implicated the petitioner by stating that ‘petitioner and the victim both work in a company under Kallu Contractor. However, due to some threats given to her by the aforesaid Kallu Contractor, she had gone along with the petitioner to the factory where she works. On 18.07.2023, the petitioner made her to drink water and thereafter, she fainted and when she regained consciousness the next day she found herself in a hotel at Jhansi and the petitioner had committed rape upon her against her wishes’.

Learned counsel submits that the aforesaid allegations levelled by the victim on the face of it are false and fabricated, as already stated the victim had stayed with the petitioner for around 02 months. It is contended that the statements of the victim recorded under Sections 161 and 164 Cr.P.C. (Annexure P-1 and P-2, respectively) are the result of afterthought on the part of the victim as admittedly, she had returned to her house on 13.09.2023; whereas the aforesaid statements were recorded on 19.09.2023. Thereafter, offences under Sections 376 and 506



IPC were added. Further, it is submitted that the petitioner has been in custody since 22.09.2023. 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 in the present case, the FSL report qua clothes of the victim is positive. The victim in her statements dated 19.09.2023 recorded under Sections 161 and 164 Cr.P.C. (Annexures P-1 and P-2, respectively) has fully supported the case of the prosecution.

Learned counsel for the State has filed custody certificate dated 30.05.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 08 months and 09 days. Perusal of the custody certificate shows that no other case is pending against the petitioner. On instructions from ASI Mahipal, learned counsel for the State informs that charges in the present case were framed on 19.12.2023; and out of total 16 prosecution witnesses, none 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 08 months and 09 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 evidence of the prosecution is yet to began, 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**.

The petitioner-Raghvender @ Raghvendra S/o Mahesh, 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.

31.05.2024
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(NIDHI GUPTA)
JUDGE

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