



**104+209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-25838-2024 in/and
CRM-M-28178-2024
Date of decision: 01.07.2024

Naveen Naru

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Bipan Ghai, Senior Advocate with
Mr Nikhil Ghai, Advocate
for the applicant/petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

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The present application has been filed under Section 482 Cr.P.C. for placing on record copy of FIR No.103 dated 27.02.2024 (Annexure P-3), copy of FIR No.107 dated 29.02.2024 (Annexure P-4), copy of statement under Section 164 of Cr.P.C. dated 17.11.2023 (Annexure P-5) in CRM-M-28178-2024.

In view of the averments made in the application, the same is allowed and copy of FIR No.103 dated 27.02.2024 (Annexure P-3), copy of FIR No.107 dated 29.02.2024 (Annexure P-4), copy of statement under Section 164 of Cr.P.C. dated 17.11.2023 (Annexure P-5) in CRM-M-28178-2024 are taken on record subject to all just exceptions.



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The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.86 dated 16.11.2023 under Sections 376(2)(n)/328/509/506 of IPC (Section 406 of IPC added later on) registered at Police Station Women Police Station, Hansi, District Hisar (Annexure P-1).

The FIR (*supra*) was lodged on the allegations that the complainant/prosecutrix, wife of 'PR' resident of 'H' moved an application to the police in which she has submitted that in the year 2020, she met Naveen Naru (the petitioner herein) and he pretended himself to be an actor of Haryanvi Films and in May, 2020, the accused asked for loan of Rs.1 lakh and having faith upon him, the complainant gave him Rs.1 lakh through cheque. Again on 15.06.2020, she gave him Rs.2 lakh in the form of cash. Thereafter, on 18.10.2020, accused called her at his home on the pretext of returning money and when she went there, the accused administered her tea laced with some intoxicating substance and committed rape upon her. On regaining consciousness, when she asked him about the same, he told her that he made a video of her and threatened her to make the video viral if she would complaint against him and threatened to kill her. When the complainant/prosecutrix told him that she would take legal action against him, then he promised to marry her and she fell in the trap of the accused. In the month of January, he took the prosecutrix in his car and raped her and made video. Thereafter, the petitioner by putting the prosecutrix under the threat to make her video viral, continued to rape her and asked for money. She took loan from many persons and gave the same to the accused, the details of which have been mentioned in the FIR. She



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also transferred money from the account of her daughter on 02.09.2023, 03.09.2023 and 04.09.2023 and accused had taken total amount of Rs.61 lakh from her and returned Rs.3 lakh only. On 11.09.2023, again, when she went to him to demand the amount then he again committed rape upon her by putting her under the same threat. It is further alleged that the accused also committed cheating with her and pledged her golden jewellery weighing 20 *tolas* in Muthoot Finance and obtained a loan of Rs.6,65,000/- and promised to pay the interest but he did not pay the same and Muthoot Finance seized her jewellery costing Rs.12 lakh. The complainant/prosecutrix when asked about her money from the accused telephonically, he stated that he is having relations with police and other influential persons and threatened her and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that in fact the petitioner is the victim at the hands of the prosecutrix. She is a married lady of 47 years of age and has falsely implicated the petitioner in order to extort money from him. During investigation of the present case, she along with two other persons was arrested on the allegations of extortion and the FIR No.103 dated 27.02.2024 under Section 384/120-B of IPC has been registered at Police Station City Hansi, District Hisar against the prosecutrix and she is also facing another FIR under Section 309 of IPC. It is further contended that there is no medical corroboration of the case set up by the prosecutrix. The petitioner is behind the bars since 04.12.2023.

The learned State has filed the custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail



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to the petitioner on the ground that there is sufficient material on record to indicate the complicity of the petitioner in the present case and the petitioner is involved in two more cases.

A two Judge Bench of Hon'ble Supreme Court in '***Satender Kumar Antil v. CBI***' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 04.12.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as out of 20 prosecution witnesses none has been examined so far. The culpability, if any, would be determined at the time of

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trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

Keeping in view the law laid down by the Hon’ble Supreme Court of India in ‘Prabhakar Tewari Vs. State of U.P. and another’ 2020 (1) R.C.R. (Criminal 831) and ‘Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another’, 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Naveen Naru is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

01.07.2024
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No