



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

213

CRM-M-32724-2024 (O&M)
Date of decision: 29.08.2024

SAHOON

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Sanyam Khetarpal, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

HARPREET KAUR JEEWAN, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.83 dated 15.02.2023 under Sections 328, 365, 376-D, 212 IPC and Sections 25/54/59 of the Arms Act, 1959 registered at Police Station Sadar Nuh, District Nuh.
2. Custody certificate dated 28.08.2024 has been filed on behalf of the respondent-State, which is taken on record.
3. Status report by way of an affidavit of Surender Kumar, HPS, Deputy Superintendent of Police, Nuh along with the documents filed on behalf of the respondent-State are taken on record.
4. The allegations against the petitioner are that the petitioner and his



co-accused had kidnapped both the victims and after administering intoxicant substance to the victims, they had committed rape upon them at gun point.

5. The FIR was registered at the instance of the complainant-Ibrahim as per which, the daughter of his brother Rahil, namely T (victim) and daughter of Aziz, namely S (victim), who were school students had gone out of their house without giving any intimation. The FIR was registered on 15.02.2023 under Section 346 IPC. However, the victims were recovered on 21.02.2023 from village Mevli and their statements were recorded under Section 164 Cr.P.C. (Annexure R-1 and R-2). As per the statement of victim-T, on 14.02.2023 during the lunch time in school, 4 boys including the petitioner offered her a glass of pepsi and she became unconscious. At about 4 pm, when she regained consciousness, she found herself in a room where the petitioner along with his co-accused- Anwar, Nazim and Sabir were also present. They had shown a knife and a country made pistol and all the 4 accused committed bad act with her for 5 days. She has further stated that the petitioner and co-accused gave telephonic information to a villager, as such, the Sarpanch with four other persons came there and both the victims were recovered. Victim-S had also got recorded a similar statement on 25.02.2023. As per the Medico Legal Reports as well as the statements recorded under Section 164 Cr.P.C., the age of both the victims is recorded as 18 years.

6. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case and he is in custody for 09 months and 27 days. He further contends that the statements of both the prosecutrix have been recorded during the trial (Annexure P-2 and P-3) and they have not supported the prosecution case. Investigation is complete and final report



under Section 173 Cr.P.C. has been presented before the trial Court. The petitioner is ready to face trial. He further submits that the trial is going to take time to conclude, as such, prayer for releasing the petitioner on bail has been made.

7. On the other hand, learned State counsel has opposed the bail petition on the ground of gravity of allegations against the petitioner. He has informed that there are total 17 prosecution witnesses and 05 witnesses have already been examined.

8. I have heard the learned counsel for the parties and perused the relevant documents.

9. Though the allegations levelled against the petitioner in the statement recorded under Section 164 Cr.P.C. by the victims are serious in nature but the statement of both the victims have been recorded during the trial and they have not supported their statements recorded under Section 164 Cr.P.C. As per the Medico Legal Report, the name of the petitioner is not recorded in the history given to the doctor. Both the victims are recorded as major in the statement recorded under Section 164 Cr.P.C. as well as in the Medico Legal Reports. As per the Medico Legal Report, no external marks of injuries were found on the person of both the victims. As per the FSL report dated 13.04.2023 (Annexure R-5), semen could not be detected on any of the samples of the victims.

10. Investigation is complete and the final report under Section 173 of the Code of Criminal Procedure has been presented before the trial Court. As per the status report, though recovery of country made pistol was effected from co-accused Nazim but no recovery of weapon has been effected from the petitioner. Allegations and counter allegations are matter of trial. The petitioner is in custody for 09 months and 27 days. Statements of the victims have already been recorded.



There are total 17 witnesses and 05 witnesses have been examined, as such conclusion of the trial is going to take time.

11. In view of the above, the petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.
12. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.
13. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

29.08.2024
P.Bhatt

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