

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-38233-2023

Date of decision:23.01.2024

Naresh @ Kala

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Karan Singh, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

SUMEET GOEL, J.

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.82 dated 15.03.2022, registered for the offences punishable under Sections 376(2)(1) and 452 IPC at Police Station Linepar, District Bahadurgarh.

2. The case set up in the FIR in question is as follows:-

“To, S.H.O, P.S. Line Par, Bahadurgarh. Sir, It is requested that I Ravinder son of Ramlal am resident of Subhash Nagar, Line Par, Shiv Mandir, I am working in JQR Company. On yesterday evening dated 14.03.2022 at about 9.00 my mother informed me on telephone that Naresh @ Kala son of Munshi, resident of Subhash Nagar, Line Par, Bahadurgarh has committed rape with Urmila after trespassing in the house. That mental condition of my wife is not good and she is taking treatment from Ram Manohar Lohia Hospital at Delhi. After receiving the information, I came to my house and my wife told me that Naresh @ Kala son of Munshi has committed rape with her. My cousin (Tau's son) namely Sonu and my bhabi (Anju wife of Ganshyam) have seen Kala at about 5.30 P.M., when he was going out from the house and in haste, Kala leaves his Chadar at my house. It is my humble request to take strict legal action against Naresh @ Kala son of Munshi. Sd/- Ravinder, Mobile no. 8685934034.”

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 15.03.2022; investigation was thereafter carried out and trial is underway. Learned counsel, while referring to the testimony of the prosecutrix (when examined as PW-1), has argued that the prosecutrix was suffering from an adverse mental condition during the alleged days of incident and was accordingly mentally disturbed. Learned counsel has further argued that the prosecutrix was suffering from bipolar disorder and it is on this account that the petitioner has been implicated in the instant FIR. Thus, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail

5. I have heard counsel for the parties and have gone through the available records of the case.

6. After the arrest of the petitioner on 15.03.2022, challan was presented on 12.05.2022 wherein total 16 prosecution witnesses have been cited. Trial is underway as 11 prosecution witnesses out of above-said total 16 prosecution witnesses including the prosecutrix stand examined. The rival contention of learned counsel for the parties, as to the weightage required to be attached to the alleged mental condition of the prosecutrix at the time of incident, will be gone into during the course of trial. This Court does not deem it appropriate to delve deep into the rival contentions, at this stage, lest it may prejudice the case of either parties. No tangible material has been brought forward to indicate the likelihood of the petitioner fleeing from the process of law or interfering with the remaining prosecution

evidence. In considered opinion of this Court, in the facts and circumstances of the case, further detention of the petitioner as undertrial is not warranted.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

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10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

January 23, 2024
Ajay

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