

CRM-M-37901-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision:06.02.2024

Nitin
State of Haryana
V/s
....Petitioner
....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL
Present: Mr. Akashdeep Singh, Advocate for the petitioner.
Ms. Priyanka Sadar, AAG Hayana.
Mr. Anshuman Dalal, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

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.121 dated 16.04.2023, registered for the offences punishable under Sections 34, 376(2)(n), 406, 506 IPC (challan presented u/s 323, 328, 34, 365, 376(2)(n), 506, 511 & 384 IPC) at Police Station IMT, Rohtak , District Rohtak.

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

To, SHO, Police Station IMT, Rohtak. Sir, It is submitted that I, DR Neha, am working in Civil Hospital Rohtak. Prior to this, I used to run a clinic in Sector 1 Then one patient Nitin Chhabra, resident of Aadarsh Nagar, came to me for treatment and he came to my clinic along with his wife Manisha also 2-4 times and then his behavior was alright. Once about in January, 2020, he called me to his house in Sector 1 on the pretext that his wife was serious. When I went to his house, he gave me cold drink for drinking. There was some intoxicant substance in it and I fell unconscious and when I regained my consciousness, I saw that there was no cloth on my person

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and I had been raped. When I told him about going to the police, then his wife showed video of rape committed with me. I became perplexed and they told that if I told about it to anyone, then they would viral my video on social media and would get killed my family. This kept on going repeatedly. In April, 2020, I gave Rs. 20 thousand from my account. Again on 26th May, 2020, I gave Rs. 20 thousand and this continued. Now I tired to commit suicide for getting rid of this life like hell. They continued to give threats of kill me and my family. They also quarreled with my mother and my brother once. The matter was compromised in Police Post Sector 14 and I got even more frightened. They took Rs. One lac from me in name of returning my video and even then they did not return the video. Now for the last 4 months, they started intimidating me and pressurized me to establish physical relations with other persons and his wife issued threats to viral the video and took Rs. 50 thousand. I objected to it. At the time of committing rape with me, his wife also used to be with him. Today i.e on 15.4.2023 at around 5.15 PM, he came outside my house in an inebriated condition and started making me to sit in vehicle forcibly and then I shouted and on hearing this, my family members and neighbours came there and on making a call on 112, the police came and they were handed over to police. Now the limit of my tolerance has ended. I told the whole matter to my family and requested for help. Kindly impart me justice and life of me and my family be protected. In case anything happens to me and my family, then these persons shall be responsible. These persons have connection with criminal type of persons and got committed rape with me in presence of Manisha. Therefore, it is requested that stringent action be initiated against them on my complaint and appropriate justice be got imparted to me. Their Phone numbers are as under:- Nitin - 9812146688, Manisha 8950342495. Sd/- Dr. Neha Hooda 9812018675, 464 GF OMAXE

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 16.04.2023 whereinafter investigation has been carried out and challan stands presented. Learned counsel has further referred, *in extenso*, to certain photographs as also the CD to argue that the relationship

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between the petitioner and the complainant was consensual in nature which turned sour due to supervening circumstances. It is further argued that the present FIR has been got registered by the complainant on account of the fall out of such consensual relationship. In this view of the matter, 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. Learned State counsel seeks to place on record custody certificate dated 05.02.2024 in Court, which is taken on record.

5. Learned counsel for the complainant has vociferously opposed the grant of regular bail by arguing that the allegations against the petitioner are serious in nature and the victim is yet to be examined as a prosecution witness.

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

7. The petitioner is in custody since 16.04.2023 whereinafter investigation was completed and challan was presented on 05.06.2023. Total 16 prosecution witnesses have been cited and culmination of trial will take its own time. The rival contention of the learned counsel for the parties, regarding the relationship being consensual in nature at one point of time and the same turning sour later on, will be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival

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contentions, at this stage, lest it may prejudice the case of either parties. As per custody certificate dated 05.02.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 09 months & is not shown to be involved in any other case. Further, no perceptible material has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

8. 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.

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(vii) The petitioner shall not in any manner try to delay the trial.

9. 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.

10. Ordered accordingly.

11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

February 06, 2024
Ajay

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