

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024-PHHC-099852



210

CRM-M-36442 of 2024 (O&M)
DECIDED ON: 5th August, 2024

Deepak @ Deepak Kumar

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE **NIDHI GUPTA.**

Present: Mr. Rohin Mahiwal, Advocate for petitioner. (through VC)

Mr. Aditya Pal Singh, AAG 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 of FIR No. 463 dated 24.12.2023, registered under Section 363, 366-A IPC, at Police Station Sadar Pehowa, District Kurukshetra.

Learned counsel for the petitioner *inter alia* submits that the present FIR has been registered by the brother-in-law/Jija of the present victim and it reads as follows:

“Sir, the copy of the application is as follows, To Sir SHO Sahib, Sadar Police Station Pehowa, Against Deepak son of Tekchand, Rani Devi wife of Tekchand, caste Chamar, Village Sarsa, Jyoti 9690374281, Deepak 907150503, Sir, it is requested that I, Sandeep son of Harichand, resident of village Sarsa and my sister-in-law Jyoti, aged 16 years and Rekha, married were living with me for 6-7 months, then Deepak boy and his mother Rani Devi lured and took her away on 19.12.2023, when we inquired at Deepak's house, he had absconded after locking all the houses. Sir, it is requested to you to trace them and take action. Applicant SD Sandeep Sandeep

son of Harichand Caste Chamar village Sarsa 8607143670 Today Police Station on receipt of the above application in the police station, on the basis of the application, the case was found to be a serious crime under Section 363, 366-A IPC, so case number 463 dated 24.12.2023 section 363, 366-A IPC Police Station Sadar Pehowa was registered and the copy along with the original application will be handed over to S.I. Balindra CP/6 for further investigation. The record was entered as per the law. Computerized copy of the complaint was sent to the service of Bajriya Post Officer Bala. Note;-This complaint was registered in the attendance of S.I. Ram niwas 97/Kurukshetra.”

Learned counsel for the petitioner vehemently contends that there is no iota of evidence in the allegations made against the petitioner. In actual fact on the date of incident, the victim was 17 years and 10 months of age. It is submitted that a perusal of the statement of the victim made under Section 164 Cr.P.C. (Annexure P-3) shows that the victim has stated therein that she has gone willingly with the petitioner on account of the fact that the complainant wanted to forcibly marry her off with his brother (also named Deepak). Learned counsel also refers to the testimony of the victim as PW1 wherein she has turned hostile and has not supported the prosecution case. Even the complainant in his testimony as PW2 (appended herein as Annexure P-6) has not supported the prosecution case and has turned hostile. It is further submitted that even at present moment the victim is residing with the petitioner and his family and she has turned major; and even otherwise the date of incident is 19.12.2023 whereas the FIR has been lodged after unexplained 5 days delay on 24.12.2023. The petitioner has been in custody since 6.1.2024. Thus, it is prayed that he may be released on regular bail.

Learned State counsel is unable to dispute the above said facts.

Learned State counsel has filed custody certificate dated 2.8.2024

which is taken on record, as per which the petitioner has been in custody as an undertrial for 6 months and 27 days. Persual of custoday certificate shows that petitioner is not invovled in any other case.

Having heard learned counsel for parties, but without commenting on merit of the case, however, keeping in view of totality of the facts and circumstances of case, including the fact that the petitioner is in custody for 6 months and 27 days as an undertrial; perusal of the custody certificate shows that there is no other case against the petitioner; material witnesses including the complainant and the victim stand examined; out of total 12 prosecution witnesses only 4 witnesses have been examined so far, therefore, conclusion of trial will take considerable long time and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is allowed.

The petitioner-Deepak @ Deepak Kumar s/o Tek Chand is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Cout/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.

5th August, 2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No