

CRM-9267-2024 in/and
CRM-M-39291-2023 **-1-** **2024:PHHC:028087**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

105+210 CRM-9267-2024 in/and
CRM-M-39291-2023

Date of Decision: 28.02.2024

Vikas

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Ms. Pushpinder Kaur, Advocate for
 Mr. Sandeep Jattan, Advocate for the applicant-petitioner.

 Mr. Surinder Kumar Dagar, DAG, Haryana.

 Ms. Mandeep Kaur, Advocate for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

CRM-9267-2024

Application is allowed, as prayed for.

Copy of statement of PW-1/victim dated 02.02.2024 filed
along with the application is taken on record as Annexure A-1, subject to
all just exceptions.

CRM-M-39291-2023

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 FIR No. 46 dated 05.05.2023 registered under Sections 376(2)(n)
IPC at Women Police Station Panchkula, District Panchkula.

The aforesaid FIR was registered on the basis of complaint
moved by respondent No. 2/complainant/alleged victim herself, which is

reproduced as under:-

“....Sir, I am xxxx w/o xxxx, resident of 200/1, New Darshni Bagh, Manimajra Chandigarh. It comes under the territory of Chandigarh. I have 3 children out of whom two are girls and one is a 4 months-old boy. I have suffered big fraud. 7 years ago from today, in 2017, I met a boy on an online website named Vikas Dhiman son of Ram Lal, who was 22 years old at that time, and who lived in Village Bihta # 57, Water Tanks in Ambala Cantt. He does work of carpenter. Vikas sent me a request online and after I accepted, we both started talking and, in our talks, I told him everything about myself that I am married and also that I have children but despite that he still liked to talk to me and we began meeting each other. After that we used to talk and then eventually, we came into a relationship and Vikas started coming to meet me 3 to 4 times a month and he started treating me like his wife and a long time passed with us talking. And sometimes there also used to be fights between us in the middle of which I used to talk about leaving him then he would threaten me that he would kill himself or consume poison. My family had also come to know about this. He told me that he cannot leave me and cannot live without me and he kept lying to me that he would marry me and also suggested me to divorce my husband and I started to trust a lot upon Vikas. I believed that if not today then tomorrow he would certainly marry me and he began telling me new lies. Vikas has been lying to me till today that he would marry me and will talk at his home about our marriage and then we will get married. Then we had a fight in November 2022 and at that time also Vikas started blackmailing me about which I complained in the I.T. Park Police Station and during the proceedings a compromise was affected between us by summoning us both. 15 days later Vikas again started messaging and calling me imploring me to talk to him or he would die. I had put Vikas's phone number in the block-list and during the meantime his mother Diksha Devi talked to me and said that please save my son or else Vikas will die. Then due to fear I talked to him and we again started speaking to each other and he again started telling me that if he will marry, then only me and no one else of which I have a recording as well as messages. I also used to get calls from Vikas's mother. Vikas did all of this to mentally harass me and sexually harassed me due to which I became very troubled. He continued this behaviour and I just trusted him and it has almost been 7 years with us together and the last time I talked to him was on 22nd where I got to know that he is involved with another girl. Now he is ruining someone else's life as well. I used to refuse Vikas many times on message but he used to tell me that he would not be able to live

without me and that please not leave me or else I will die and used to threaten me a lot due to which I became very troubled as to what I should do and I also have all the messages and phone calls and recordings. He now wants to betray me and leave me after sexually using me. He has wronged me very badly. Please ensure that I get justice in this case and Vikas by lying and entrapping me has wasted a lot of my time and I want justice so please my application be given due attention and with folded hands I pray that justice be given to me... ”

Learned counsel for the petitioner, *inter alia*, submits that at the time of alleged incident, the petitioner was 26 years of age; whereas the complainant/victim/respondent No. 2 herein was a 33 years old married woman and mother of 03 children. It is submitted that the petitioner met the victim in the year 2017 and thereafter, they were in a consensual relationship. As narrated in the FIR, the petitioner had never made any promise to marry the complainant/victim, therefore, the assertions regarding rape made in the FIR are false and fabricated. Learned counsel submits that statement of the complainant/victim (Annexure A-1) as PW-1 has been recorded by the trial Court, wherein she has been declared as hostile. The petitioner has been in custody since 22.06.2023. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner may be released on regular bail.

Learned counsel for the State has filed custody certificate dated 26.02.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 08 months and 04 days. As per custody certificate, there is no other case against the petitioner. It is submitted by learned counsel for the State that the complainant/victim in her statement under Section 164 Cr.P.C.

(Annexure R-1) has fully supported the case of the prosecution. However, he admits that now, the victim had turned hostile before the trial Court. It is further submitted that out of total 16 prosecution witnesses, only the complainant/victim has been examined, so far.

Learned counsel for respondent No. 2/complainant does not disputes the aforesaid facts.

Thus, having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case and the custody period undergone by the petitioner including the fact that the custody certificate reveals that there is no other case against the petitioner; moreover, out of total 16 prosecution witnesses only 01 witness has been examined till date, therefore, conclusion of trial will take considerable time and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.

The petitioner-Vikas S/o Ram Lal, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/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.

28.02.2024

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(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No