

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

213

CRM-M-40040-2023

Date of decision: 10.01.2024

Wahid

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Saleem Ahmed, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

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.78 dated 25.03.2022, registered for the offences punishable under Sections 365, 376-D, 506 IPC at Police Station Pinangwa, District Nuh.

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

“To SHO, Police Station, Pinangwa. Sir, it is stated that I Ramjano daughter of Aas Mohd. resident of Ted, Police Station Pinangwa District Nuh and I am residing at my father's house. My age is about 23 years and I belongs to poor family. On 19.03.2022 in the night at about 10.00 o'clock I was going from my house to another plot then suddenly one Brezza vehicle came at the road and accused Irshad son of Ishak, Wahid son of Mustak, Boller son of Hakku riding the vehicle and they started talking non-sense and said come and sit with them when I refused then the above accused get me put forcibly in the Brezza vehicle and when I tried to raise noise, my mouth was gagged and by taking me in to the forest above accused committed raped upon me forcibly without my consent and after some time, Irshad son of Ishak reached there, who also committed raped upon me forcibly and I kept raising noise and accused fled away by leaving me and two mobile phones at the spot and I took the mobile phones and came back to house and narrated the all incident to my mother but accused came to our house and said to my mother to compromise the

matter at Panchyat level and if she did not compromise at Panchyat level, then they will kill her and today on 25.03.2022, I am giving the application by reaching at police station. Hence, it is requested Sir, strict legal action be initiated against the accused and life and liberty of my family be saved. It will be highly thankful to you. Sd/- Ramjano Applicant Ramjano daughter of Aash Mohd. resident of Ted, Police Station Pinangawa District Nuh Mobile No. 9671381234. At Police Station:- At this time after receiving of above complaint at police station and on finding the offence to be occurred U/s 365, 376-D, 506 IPC, FIR No. 78 dated 25.03.2022, U/s 365, 376-D, 506 IPC registered at police station Pinangwa District Nuh. After preparing the copies of FIR from the computer, special report is sending to Illaqa Magistrate and higher officer for information through e-mail. I, L/ASI along with original report, L/CT Pinky no.1030/Nuh and complainant is proceeding to the occurrence place.”

3. Learned counsel for the petitioner contends that the petitioner is in custody since 11.11.2022; all the material witnesses including the prosecutrix have been examined; the DNA profile of the present petitioner did not match with the semen sample & no other case is registered against the petitioner. Thus, it is argued that no useful purpose would be served by keeping the petitioner behind the bars.

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. Investigation in the case is complete and challan stands presented. Four independent prosecution witnesses have not supported the prosecution case and have turned hostile. Veracity of allegations against the petitioner is a matter to be adjudicated upon during trial. No tangible material has been brought before this Court to indicate likelihood of the

petitioner absconding from the process of justice or interfering with the prosecution evidence. Hence, in my considered opinion of this Court, further detention of the petitioner 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.

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 10, 2024
Ajay

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