



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M-41982-2024
Date of Decision: 03.09.2024

Naresh Kumar

Versus

....Petitioner

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Vishal Yadav, Advocate for the petitioner.

Ms. Deepshika Chauhan, A.A.G., Haryana.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 483 BNSS of 2023, for grant of regular bail in case FIR No. 162 dated 29.05.2024 registered under Sections 376, 450 IPC at Police Station Khol, Rewari.

Learned counsel for the petitioner *inter alia* submits that the present FIR has been registered on the basis of the statement of the alleged victim/complainant herself in which allegations have been made against the petitioner and one Ram Avtar. It is submitted that the petitioner is the brother-in-law/devar and Ram Avtar is the brother-in-law/nandoi of the complainant. Learned counsel submits that the complainant is the widow of elder brother of the petitioner. In the FIR, it has been stated that the petitioner alongwith co-accused Ram Avtar had come down from the roof of the house in the courtyard; where the complainant and mother-in-law of the complainant were sleeping and forcibly caught hold of hand of the complainant. As such, there is no



allegation of rape in the FIR. Even in the statement made by the complainant before the Legal Aid Counsel, there is no allegation of rape. However, in her statement made under Section 164 Cr.P.C. (Annexure P-4), it is for the first time when the complainant has alleged that the petitioner had committed rape upon her. It has further been stated therein that “....my mother-in-law did not awake despite of my shoutings.” Learned counsel for the petitioner contends that admittedly, the complainant and the mother-in-law of the complainant were sleeping in the courtyard; whereas the petitioner and another co-accused Ram Avtar were sleeping on the roof. It is the allegation of the complainant that the petitioner came down from the roof in the courtyard and committed rape upon the complainant and despite shoutings, mother-in-law did not wake up. It is submitted that the said allegations on the face of it, are false and fabricated. It is further submitted that the co-accused Ram Avatar has already been put in column No.12 as is evident from challan (Annexure P-1). Admittedly, there is a family dispute going on between the parties and the present FIR is the result of the said family dispute. The petitioner has been in custody since 30.05.2024 as undertrial. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that the present petition may be allowed and the petitioner be released on regular bail.

Learned counsel for the State opposes prayer made on behalf of the petitioner and, on instructions from SI Laxmi Narayan, submits that the matter is still pending and charges are to be framed today before the learned trial Court. Even the FSL report is still awaited. As such,



custody of the petitioner is still required. Learned counsel for the State files custody certificate dated 31.08.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 3 months and 1 day.

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 including: a) the custody period of 3 months and 1 day undergone by the petitioner as an undertrial; b) no other case pending against the petitioner as evident from the custody certificate placed on record; and c) charges are yet to be framed and, therefore, the 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-Naresh Kumar S/o Raghubir Singh, 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.

03.09.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

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