



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
210

CRM-M-41703-2024(O&M)

Date of Decision: 20.11.2024

Suraj

....Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Rajesh Gupta, Advocate for the petitioner.

Ms. Deepshikha Chauhan, A.A.G., Haryana.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 483 of The Bharatiya Nagarik Suraksha Sanhita for grant of regular bail in case FIR No. 0283 dated 22.08.2023 (Annexure P-1) registered under Sections 346 IPC at Police Station Bahalgarh, District Sonipat (later on charge-sheeted under Sections 363, 366-A IPC).

Status Report dated Nil filed by way of an affidavit of the Assistant Commissioner of Police, Rai, District Sonipat on behalf of respondent-State of Haryana in Court today is taken on record. A copy thereof has been supplied to learned counsel for the petitioner during the course of the day.

Learned counsel for the petitioner *inter alia* submits that the present FIR (Annexure P-1) was registered on the basis of the statement made by the father of the victim which reads as under:-



"To SHO Sir, P.S. Bahalgarh, Sonipat. Sir, I am XXXXX R/o Village/ Mohalla Kaisthan, Ward No. 1, Puranpur, Police Station Puranpur District Pilibhit, UP as of now residing as tenant in house of Mukesh, I am doing work of paint, my daughter XXXXXXXX is doing job in AD, SILA company, who without telling us went alongwith one boy. The age of our daughter is 18 years. The suit she wore is of black colour and with Payjami of Khaki colour. In hand she have 'Kada' of Steel and leather chappal in feet. My daughter XXXX be searched, advertisement and posters may kindly not be published. Please take action."

Learned counsel for the petitioner submits that as is evident from the above said FIR, the victim was 18 years of age at the time of commission of alleged offence. It is stated that the petitioner and the victim are on talking terms and are known to each other. The victim in her statement under Section 164 Cr.P.C. (Annexure R-1) has categorically stated that she wants to marry with the petitioner. The petitioner has committed no wrong act with the victim as is evident from the MLR (Annexure R-2). Moreover, the charges were framed in the matter on 23.01.2024; and out of 15 witnesses, none has been examined so far, as the complainant and the prosecutrix are not coming forward to record their statements before the learned trial Court.

Learned counsel for the petitioner further submits that the petitioner has been in custody since 14.09.2023 as undertrial. No useful purpose would 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 Samundar Singh-89, Police Station Bahalgarh, Sonipat, submits that although the age of the prosecutrix is mentioned as 18 years in the FIR, however, at the time of her medical examination, as also in her statement under Section 164 Cr.P.C. (Annexures R-2 and R-1 respectively), the victim has stated herself to be 17 years of age. It is further submitted that as per the victim, the petitioner and the victim have solemnized marriage in an informal ceremony, however, there is no document regarding the alleged ceremony. It is further pointed out that service has been effected upon the complainant and the victim on the notice issued by the learned trial Court and they will be produced before the learned trial Court on 29.11.2024.

Learned counsel for the State files custody certificate dated 19.11.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 1 year, 2 months and 6 days.

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 the fact that: a) the custody period of 1 year, 2 months and 6 days undergone by the petitioner as an undertrial; b) no other case is pending against the petitioner as evident from the custody certificate placed on record; c) out of total 15 witnesses, none has been examined so far; and d) 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- Suraj S/o Shri Om Pratap, 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.

Pending application, if any, stands disposed of.

20.11.2024

Divyanshi

(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No