



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

205

CRM-M-41998-2024
Date of Decision: 03.09.2024

Samsuddin VersusPetitioner

State of Haryana and another Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Vishal Kumar Pandey, Advocate for the petitioner.

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

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 2nd petition under Section 483 BNSS of 2023, for grant of regular bail in case FIR No. 0010 dated 04.04.2024 registered under Section 506 IPC, 1860 and Sections 6 and 17 of the Protection of Children from Sexual Offences Act, 2012 at Women Police Station Mewat, Nuh (Annexure P-1).

Learned counsel for the petitioner *inter alia* submits that the present FIR has been registered on the basis of the statement of the brother-in-law/jija of the alleged victim, wherein it has been alleged that when the victim, complainant and his wife were residing as tenants in the premises rented out to them by the petitioner, the petitioner had committed rape upon the victim. Learned counsel submits that first and foremost the incident pertains to 2 ½ years prior to registration of the FIR. It is further submitted that in any event, allegations made against the petitioner are false and fabricated as the victim in her testimony as PW1 (Annexure P-3) had not supported the prosecution case and in fact,



has stated that the petitioner '*Samsuddin did not commit anything wrong with me.*' The victim has now alleged that the complainant/her brother-in-law '*Aarif did wrongful act with me, one year ago.....*' It is stated that even there is no medical evidence against the petitioner. The petitioner has been in custody since 14.04.2024 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 PSI Poonam, submits that the victim in her statement made under Section 164 Cr.P.C. as also at the time of medical examination, has supported the prosecution case. Learned counsel for the State further submits that out of total 16 witnesses, only 2 witnesses (including material witness/victim) have been examined so far.

Learned counsel for the State files custody certificate dated 02.09.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 4 months and 19 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: a) the custody period of 4 months and 19 days undergone by the petitioner as an undertrial; b) no other case pending against the petitioner as evident from the custody certificate placed on record; c) material witness/victim already stands examined; and d) out of total 16 witnesses, only 2 witnesses have been



examined so far 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-Samsuddin S/o Sirdari, 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