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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44024-2023 (O&M)

Date of Decision: 29.04.2024

Sunil Kumar

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Saurabh Bajaj, 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.160 dated 12.06.2023, registered for the offences punishable under Sections 313, 323, 376(2)(n), 506 and 34 of IPC at Police Station Rampura, District Rewari.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Brief facts of the present case are that on dated 12.06.2023, Pooja D/o Babulal resident of Village Hazariwas had given a written complaint in Police Station Rampura, Distt Rewari, the contents of the same are as under: To, the SHO Police Station Rampura, Rewari, Haryana. Sub application for lodging the complaint. Sir, it is submitted that 1 Pooja do Babul Lal is resident of Village Hazariwas, Rewari. For the last 8 to 9 months Sunil son of Lal Singh resident of Village Hazariwas, District Rewari on the pretext of Course of even management and by doing my brainwash and by staying away me from my families had taken me to Noida and after doing flirt and by doing sweet whispers and by alluring me and my two sisters whose names are Poonam daughter of Babulal and Preeti d/o BabuLal, their friend Khoti who is also of the same village he had made objectionable photos and videos of my sisters from their college and had continued to commit rape upon me for the last 7-8 months by giving medicine to me and by giving threat to kill and had washed my mind against my

family and he had also pregnant me after doing rape for the last about two months and had aborted the above child somehow by giving medical and thereafter used to show me big dream in the name of business and continued to give threat to get viral of photos and videos of my sisters, family members had even tried to enquired from me on 12.06.2023 but because my reputation may not be auctioned accordingly I continued to conceal all these things. On dated 04.06.2023 there was a Kuan Pujan function at my house so I had come to my home. One day prior to that on dated 03.06.2023 a telephone call of Sunil son of Lal Singh had come to my home and he had called me to have talks related to business but I had demanded my right then at that time he had done thrashing with me and the sign of the same are duly depicts on my body. On dated 12.06.2023 again had done thrashing with me and had continued to commit rape upon me on the pretext of making wife and marriage and on the basis of photo and video and thereafter wife namely Usha Devi wife of Sunil son of Lal Singh was also involved in their conspiracy, she had made a plan to get out me of the way and he had also narrated to her mother also and her mother had stated to me that leave my son and whatever money you ask we will give you and his father whose name is Lal Singh had stated to keep in his house and to give all rights. On 12.06.2023 when my family had said that narrate all the things to us then I had narrated my incident, on 12.06.2023 the brother in law of Sunil, Vikas and his sister in law Sharmila had done lots of thrashing with me and the video of the same is present in my mobile. One boy of the village who is being called from the name of Khoti he had given the threats to get viral the photos and videos of my sister and if I had tried to narrate all these things to my family then Sunil and his family member had given the threats to kill me and my family members and Sunil had stated that Usha bring my pistol I just now do the treatment of her family members. In the mean time when my family member had come to save me then some of their neighbourer had also done thrashing with me and my family members. And they had climbed upon me and my family member to kill with the lathes and dandas. Somehow we had rescued us and had come outside. It is submitted that the medical may kindly be got conducted of my body and strictest punishment may kindly be given to the accused and whatever videos and photos which are made of my sisters the same may be deleted, Sunil son of Lal Singh had taken me to Nagpur on some pretext in January 2023 and there also he had committed rape and when I had refused them he had burnt my hands from the iron press and the sign of the same are on my hand. Now whatever he had done with me had spoiled my life and had brought me to the extent of committed suicide and if I commit suicide in future then the responsibility of the same will be Sunil son of Lal Singh. Sir, it is requested that the strictest punishment may kindly be given to the accused person. And the equal rights may kindly be given to me in the house. And the

threat has been given to kill me and my family and the responsibility of the same will also be of Sunil son of Lal Singh. Sharmila, Usha, Lal Singh, mother of Sunil Suresh Devi. Further I am not secure in my life and my family is also not secure. Kindly the protection may kindly be given to me and my family and whoever accused who is involved in this rape and conspiracy the strictest punishment may kindly be given to them. Sd/- victim Pooja Dated 12.06.2023.

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 13.06.2023. Learned counsel for the petitioner has referred, *in extenso*, to the testimony of the victim when recorded as PW-1 to submit that it has been so stated in the testimony that she was already aware that the petitioner was married or even having children, the victim has admitted in her testimony that she has been travelling with the petitioner to several cities and staying in hotels together which goes on to show that there was a consensual relationship between the petitioner and the victim. Learned counsel has further argued that there is no medical evidence available on record till date to substantiate the cause of the prosecution. Thus, regular bail is prayed for.

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. The petitioner was arrested on 13.06.2023 whereinafter challan was presented on 09.08.2023 & trial is underway. Total 17 prosecution witnesses have been cited out of which the testimony of the victim stands already recorded as PW-1. The rival contention of the learned counsel for the parties; regarding the weightage required to be attached to the cross-examination of the victim (when examined as PW-1) shall be gone into

during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. Since total 17 prosecution witnesses have been cited out of which only 1 prosecution witness has been examined till date, the culmination of the trial will take its own time. As per the custody certificate dated 27.04.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 10 months & is not shown to be involved in any other case. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

7. In view of totality of factual matrix of the present case, the instant 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/Illaqa 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.

29.04.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No