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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50011-2023 (O&M)
Date of decision: 01.05.2024

AMAN

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENTS

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manish Verma Advocate
for the petitioners.

Mr. Vikas Bhardwaj, AAG Haryana.

Mr. Jogi Ram Nain, Advocate
for the complainant.

HARPREET SINGH BRAR J. (ORAL)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 24 dated 29.03.2023 registered under Sections 323, 328, 34, 342, 354, 376, 376(2)(n), 376(2)(f), 506 and 511 of Indian Penal Code at Police Station Women, District Jind (Haryana).
2. Learned counsel for the petitioner *inter alia* contends that complainant is a married lady, 33 years of age and initially she had gone missing on 10.03.2023 and in this regard, her husband got an FIR registered on 19.03.2023. On 21.03.2023, the husband of the complainant named Deepak @ Deepu in the FIR and complainant was recovered on 21.03.2023 and she stated on the same day that she has left the house out of her own free will and reached Police Station Uchana on 21.03.2023 on her own. She further stated in her affidavit that she did not want to live in her matrimonial home with her husband and she wanted to live with her sister and the FIR was cancelled on

21.03.2023. Subsequently, the present FIR was lodged on the statement of the complainant on 29.03.2023. It is further contended that as per the case set up by the prosecution, there are no allegation against the present petitioner with regard to committing rape upon the complainant. Rather the allegation of rape has been specifically levelled against the main accused Deepak @ Deepu. Lastly it was contended that similarly situated co-accused Deepak has been granted anticipatory bail by this Court vide order dated 05.04.2024 passed in CRM-M-59459-2023.

3. Per contra, learned State counsel assisted by Mr. Jogi Ram Nain, Advocate for the complainant opposes the prayer for grant of regular bail to the petitioner on the ground that there are specific allegations against the petitioner. However, they could not controvert the fact that similarly situated co-accused has been granted the concession of anticipatory bail by this Court.

4. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner has been in custody since 12.04.2023 and out of total 20 prosecution witnesses, none has been examined so far. As such, the trial of the case is likely to take long time to conclude. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

5. Accordingly, the present petition is allowed. The petitioner-Aman is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

6. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

May 01, 2024
Ajay Goswami

(i) Whether speaking/reasoned

(ii) Whether reportable

(HARPREET SINGH BRAR)

JUDGE

Yes/No

Yes/No