

203 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56883-2023

Date of Decision : 09.02.2024

Amar Singh

...Petitioner

Versus

State of Haryana

....Respondent

BEFORE: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: Mr. Ravinder Malik (Ravi), Advocate for the petitioner.

NIDHI GUPTA, J. (ORAL)

Prayer in this 3rd petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner during the pendency of the trial in case FIR No. 181 dated 09.06.2020 registered under Sections 54, 354, 376 and 509 IPC at Police Station Chandi Mandir District Panchkula.

The present FIR (Annexure P-2) was registered on the basis of statement of victim herself which reads as follows:

"I Rekha Rani D/o Om Prakash Resident of Barwala, Near Community Centre Police Station Chnad mandir. Since last 3 years, I am working in Amulya Herbs a Pharmaceutical Company situated at Alipur. In this company A boy namely Amar resident of Bhagwanpur is also working there. With whom I became friend 3 years ago. Due to having job in same company we used to talk with each other, with the passage of time we fell in love with each other. Who trapped me by telling himself as unmarried and he also made many times physical relation with me in the fields of Barwala at different places. That in the month of January, 2019, around 7-8 PM Amar for the first time made physical relation with me and same was going on for the next one year. That after one year I came to know that Amar is married. Then, I refused to made physical relationship with him. After that he told that I have your obscene picture. In case you will not made physical relationship with me then I will tell about it to your brother in law. That due to this fear I used to go with him. Amar also told Sanjeev all about our relations who is also working in our company. After that, Sanjeev who is resident of Ramgarh started blackmailing me to make physical relations with him too he said otherwise "I will inform all about your and Amar relation to your brother in law. Same Sanjeev told to Pawan who is also working in our company and after that Pawan and Sanjeev both were taunting obscene and teasing me. That till now, I had been under from them so that

nobody come to know about it in my family. But when these three crossed their limits, I told my family and my brother in law about this. That today I with my brother in law Ravinder and my sister Mamta filed complaint in police station. A strict legal action must be taken against all aforesaid persons. SD Rekha complainant Rekha d/o Om Prakash resident of community centre Barwala, Mobile number. 9466449031, dated 09.06.2020."

Learned counsel for the petitioner, *inter alia*, submits that the petitioner has been falsely implicated in the matter. The complainant was working in the same company as the petitioner and it is stated that it has been falsely alleged in the FIR that the petitioner enticed the complainant without revealing to her that he is married. It is stated that as the complainant was working in the same company, she was bound to know that the petitioner was married. It is further submitted that the petitioner has been in custody for 3 years and 8 months. Out of 17 witnesses only 3 have been examined so far. The complainant stands examined as is evident from her testimony (Annexure P-3) in which she has supported the prosecution case. It is submitted that earlier the petitioner filed CRM-M-32566-2020 before this Court seeking regular bail which was disposed of but no relief was granted to the petitioner in view of the fact that the prosecutrix had yet to be examined. It is further submitted that the State has also admitted that the prosecutrix had herself refused her medical examination. In the reply dated 20.02.2023 filed by the respondent-State, it has been admitted by the State that as per report of FSL, Madhuban, No 20/CF-263 dated 10.02.2023, Parcel no 1 with seal impression RS/03 belongs to present petitioner and the Digital Storage Media marked Exb-1M has been examined forensically by using Mobile forensic Software XRY Version 10.4 and it reveals that no data related to obscene image/ video file has been found/ retrieved from the same. Copy of report is Annexure R-2 with the reply, which is taken on record.

Notice of motion.

Mr. Surinder Singh Dagar, DAG, Haryana, accepts notice on behalf of the respondent-State and has filed the custody certificate dated 08.02.2024 in Court today. The same is taken on record. Copy thereof is supplied to the counsel opposite.

As per the custody certificate, the petitioner has undergone custody as under-trial including remission for a period of 03 years, 07 months and 28 days. Learned State counsel admits that out of 17 witnesses only 3 have been examined.

I have heard learned counsel for the parties and gone through the case file carefully.

Without commenting on the merits of the case, however, keeping in view the totality of facts and circumstances of the case, including the fact that the trial of the case is likely to consume considerable time as out of total 17 prosecution witnesses, only three witnesses have been examined so far; and keeping in view the custodial period of the petitioner; and the fact that there is no other case pending against him, his further custody may not be justified. Therefore, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner-Amar Singh son of Bal Kishan be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

The petition is allowed.

February 09, 2024
ps

(NIDHI GUPTA)
JUDGE

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