

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

109+227

CRM-M-54624-2023 (O&M)
Date of decision: 26.02.2024

Naresh Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Johan Kumar, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Akshit Mehta, Advocate
for the complainant.

MANISHA BATRA, J. (Oral)

1. CRM-8200-2024

Allowed as prayed for.

Copy of the statement of the prosecutrix is taken on record as
Annexure P-7.

2. CRM-M-54624-2023 (O&M)

This petition has been filed by the petitioner under Section 439
Cr.P.C. for grant of regular bail in case bearing FIR No. 27 dated 18.01.2023,

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registered under Sections 376, 328, 354-C, 120-B, 386, 506 of the IPC at Police Station Saran, District Faridabad.

3. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by complainant/victim 'H' (*name withheld*) on 18.01.2023 alleging therein that she was aged about 21 years and was having friendship with one Preeti since their school days. She was also known to Preeti's husband, namely Jai. She alleged that on 01.01.2022, she was invited by Preeti and her husband over lunch. She was picked up in a car by Jai from Gurudwara Road, Jawahar Colony. He offered her some cold drink, on consuming which, she lost her consciousness as some intoxicating substance was mixed into the same. On regaining the consciousness, she found herself in a room at Vrindavan in a naked condition and Preeti, Jai and one Naresh, who was a friend of Jai, were also present in the said room. When the victim raised alarm, Preeti and her husband Jai told her she (victim) and Naresh had made physical relations when she was not in her senses. Thereafter, they took her and dropped her at Faridabad and threatened that if she disclosed about the incident to anyone, they would viral her videos and images, which they had captured during the aforesaid act. After some time, the accused persons started extorting money from the victim by extending threats of making her obscene videos and photographs viral and in the said process, they had extorted a sum of Rs. 2,50,000/- from her. After registration of the FIR, investigation proceedings were initiated. The victim was medico-legally examined. Her statement under Section 164 Cr.P.C. was recorded, wherein she reiterated the allegations. The petitioner was arrested on 22.03.2023. After completion of

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investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner along with co-accused is facing trial for the aforementioned offences. He had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 16.10.2023.

4. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. In fact, the victim was having an intimate relationship with the petitioner and she had stayed with him on various occasions i.e. 04.01.2022, 01.03.2022 and 08.04.2022 in a hotel, which shows that she was a consenting party. There is delay of about one year in lodging the FIR. The victim, in her sworn deposition recorded in the Court, has not implicated the petitioner in subject offences and has stated that the present case was registered for the reason that Preeti had refused to repay the loan amount of Rs.50,000/-. The victim was declared hostile and during her cross examination, she even refused to have recorded her statement under Section 164 Cr.P.C. on 19.01.2023. The petitioner is in custody since 22.03.2023. Co-accused Preeti and her husband Jai Kishan have already been granted concession of anticipatory bail/regular bail by this Court. The conclusion of trial is likely to take some time. No useful purpose would be served by keeping him in custody anymore. It is, therefore, argued that the petitioner deserves to be given benefit of regular bail.

5. Learned State counsel has resisted the petition by arguing that there are serious allegations against the petitioner. He has ravished the victim when she was unconscious and thereafter he along with other accused had

extorted money from her by extending threats to make her obscene videos and photographs viral. Therefore, he has argued that the present petition is liable to be dismissed. However, learned counsel for the complainant has submitted that he has no objection if the petitioner is granted concession of regular bail.

6. I have heard learned counsel for the parties and have also perused the material placed on record carefully.

7. The petitioner, in connivance with co-accused, is alleged to have ravished the victim in a hotel room when she was unconscious and is alleged to have made her obscene videos and photographs and is further also alleged to have criminally intimidated her by extending threats to make her obscene videos and photographs viral. However, during the course of trial, the victim, who was major at the time of alleged occurrence, has not supported the prosecution version while appearing in the Court as PW-2 and has totally denied the allegations as levelled in the FIR. Rather, she has taken a stand that the present case was registered only for the reasons that co-accused Preeti was not repaying some loan amount to her but the police officials had taken her signatures on blank papers. There is unexplained delay of about one year in lodging of the FIR, as the alleged occurrence is said to have taken place on 01.01.2022, whereas the FIR was got registered on 18.01.2023. The petitioner is in judicial custody since 22.03.2023. Trial is likely to take some time. Co-accused Preeti has been granted concession of anticipatory bail by this Court, vide order dated 19.09.2023 passed in **CRM-M-28614.2023**. Even co-accused Jai Kishan has also been granted benefit of regular bail by this Court, vide order dated 29.09.2023 passed in **CRM-M-41401.2023**. Keeping in view the evidence, which has come on record in the form of sworn deposition of the

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victim, the period of custody spent by the petitioner and attendant facts and circumstances of the case, I am of the considered opinion that the petitioner deserves to be extended benefit of regular bail.

8. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

26.02.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No