

CRMs-16137-38 of 2024 IN/AND -1- 2024:PHHC:055114
CRM-M-55834-2023 (O&M)
107 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRMs-16137-38 of 2024 IN/AND
CRM-M-55834-2023 (O&M)
Date of Decision: 20.04.2024

JOGINDERPETITIONER

Vs.

STATE OF HARYANARESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Narender Kaajla, Advocate,
for the applicant-petitioner.

Mr. Amrik Singh Narwal, D.A.G. Haryana.

HARPREET KAUR JEEWAN J.

CRM-16137-2024

1. By this application, the applicant-petitioner seeks permission to place on record some documents as Annexures P-18 and P-19 with the accompanying petition.
2. For the reasons mentioned in the application, the same is allowed. The aforesaid documents are ordered to be taken on record as Annexures P-18 and P-19 with the accompanying petition, subject to all just exceptions. Office to tag the same at appropriate place.

CRM-16138-2024

1. By this application, the applicant-petitioner prays for preponement of the date of hearing fixed in the main petition from 03.05.2024 to some early date.

2. For the reasons mentioned in the application, the same is allowed. The date of hearing fixed in the accompanying petition is advanced from 03.05.2024 to today itself. The main petition is taken on Board for hearing.

CRM-M-55834-2023

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No. 275 dated 02.05.2023, under Sections 354-A, 376 (2) (n) and 506 of the IPC read with Section 34 thereof (Section 354-A/34 IPC were deleted later on) registered at Police Station Urban Estate, Hisar.

2. A status report, dated 24.11.2023, by way of an affidavit of Sh. Vinod Shankar, HPS, Deputy Superintendent of Police, Headquarter, Hisar, along with a copy of the MLR of the prosecutrix, dated 03.05.2023, a copy of the FSL report, dated 16.05.2023, and 06.06.2023, statement of the prosecutrix recorded under Section 164 Cr.P.C. dated 05.05.2023 and a copy of the disclosure statement of the accused/petitioner as Annexures R-1 to R-5, has already been filed by learned State counsel. The same is taken on record.

3. As per the prosecution version, the prosecutrix aged 27 years was engaged. The prosecutrix met with the petitioner and both used to have telephonic conversation. The petitioner told the prosecutrix that her fiancé is a drug addict. Believing the aforesaid information, the prosecutrix filed a complaint against her own family members with the allegations of forcibly

performing her marriage with a 3rd person. Eventually, the engagement was called off.

3.1 It is further alleged that in the year 2022, the petitioner took the prosecutrix to a hotel and made physical relation with her against her wishes after giving her certain pills which made her unconscious. A video of the incident was made by the petitioner and thereafter, the petitioner had been forcibly making physical relations with the prosecutrix on the pretext of marriage. However, later on the prosecutrix came to know that the petitioner is already married and having three children. The petitioner had been threatening the prosecutrix not to disclose these facts to anybody. Thereafter, the petitioner took the gold ornaments from the prosecutrix and with the said money he purchased a house and half of the said house was registered on the name of the prosecutrix. In the year 2022, the prosecutrix narrated the entire incident to Sunil Kumar, however, Sunil Kumar also misbehaved with the prosecutrix. Thereafter, they shifted to Hisar. However, on 11.04.2023, the petitioner forcibly committed rape on the prosecutrix under the influence of alcohol and then left the house. The prosecutrix lodged a missing report of the petitioner-Joginder and thereafter, he received a call from the petitioner. However, ultimately the petitioner refused to live with the prosecutrix.

4. Learned counsel for the petitioner *inter alia* contends that the prosecutrix has not supported the prosecution version during her statement recorded during the trial. The petitioner is in custody. The conclusion of the trial will take time.

5. Learned counsel for the State has opposed the petition, on the ground of the gravity of the allegations.

6. I have considered the aforesaid submissions.

7. Though the prosecutrix has supported her version in her statement recorded under Section 164 Cr.P.C., however, when she appeared as Witness No. 1 during the trial (Annexure P-18) she has stated that the complaint (Annexure P-1) was lodged due to some misunderstanding and she does not want to pursue with the present complaint. She was declared hostile. Despite that she has not supported the prosecution case. Similar is the statement of witness No. 2 (grand-mother of the prosecutrix). The prosecutrix is major. After completing the investigation, the report under Section 173 (2) Cr.P.C. has been presented before the trial Court. The conclusion of the trial will take time as there are 16 prosecution witnesses. Though there are two other cases pending against the petitioner as per the status report, however, in FIR No. 101, dated 21.05.2021, registered at Police Station Canal Colony Bathinda, under Sections 323, 365, 506 read with Sections 34 and 120-B of the IPC, the investigation is still pending and in the second case, i.e. FIR No. 189, dated 09.08.2021, registered at Police Station Gogameri District Rajasthan, under Sections 323, 406 and 498-A of the IPC read with Section 34 there, the trial is still going on, and no conviction has been yet recorded.

8. Keeping in view the aforesaid facts and circumstances of the present case, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial Court/CJM concerned.

9. However, it is made clear that nothing observed hereinabove will be taken to be an expression on the merits of the case, which would be

CRMs-16137-38 of 2024 IN/AND -5- 2024:PHHC:055114
CRM-M-55834-2023 (O&M)
gone into by the learned trial Court wholly on the basis of the evidence
led/gathered before it.

10. Pending miscellaneous application (s), if any, shall also stand
disposed of.

April 20, 2024
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether reportable	No