

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

307

CRM-M-56985-2023 (O&M)
Date of decision: 15.01.2024

Jitender alias Kala

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rajesh Gupta, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 228 dated 06.07.2023, registered under Sections 354, 376, 452, 506 of the IPC at Police Station Civil Lines, Sonipat.
2. 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 the complainant 'M' (*name withheld*) alleging therein that her marriage was solemnized about 21 years back with one Raju and they had three children. Her husband had been residing separately from her in Delhi for the last 2-3 years. She had a friendship with petitioner Jitender

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@ Kala for the last 5-6 months. She alleged that petitioner had raped her forcibly in March, 2023 and threatened to kill her, if she disclosed about the incident to anyone. On the night of 02.07.2023, one Suresh had come to leave her at her house and she was making tea for him. In meanwhile, petitioner entered into her house and started outraging her modesty but she was rescued by said Suresh. She prayed for taking legal action against the petitioner. After registration of the FIR, investigation proceedings were started. The petitioner was arrested on 22.07.2023. After completion of the necessary investigation and usual formalities, challan was presented in Court and presently the petitioner 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 10.08.2023.

3. It is submitted by learned counsel for the petitioner that he is in custody since 22.07.2023. He has been falsely implicated in this case. The allegations that the prosecutrix was subjected to rape by the petitioner had been levelled by her after four months of the alleged incident and no explanation whatsoever has come on record in this context. In fact, the petitioner and the prosecutrix were in a consensual relationship. Learned counsel has also placed on record certain photographs showing them to be in intimate positions. It is submitted that neither any medico-legal examination of the prosecutrix has been conducted to show that she was ravished by the petitioner without her consent nor there is any other material on record to show so. The allegations that he had tried to outrage her modesty are also false on the face of the same. He has been in custody for over a period of six months. The investigation has since been completed. Challan has been

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presented. Trial is likely to take some time. No useful purpose would be served by keeping him in custody anymore. Hence, it is prayed that the present petition deserves to be allowed.

4. Status report has been filed by learned State counsel submitting therein that the petitioner has been arrested on 22.07.2023. He had suffered disclosure statement admitting that he was having friendship with the prosecutrix for the last 5-6 months and had ravished her in the March, 2023 and also that he had tried to outrage her modesty on 02.07.2023. It is submitted that there are serious allegations against the petitioner, therefore, he does not given to be given benefit of concession of bail.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

6. The petitioner is alleged to have ravished the prosecutrix in the month of March, 2023 and is further alleged to have tried to outrage her modesty on 02.07.2023. Some photographs showing the petitioner and the prosecutrix in intimate positions have been placed on record by learned counsel for the petitioner. The allegations that the prosecutrix was subjected to rape by the petitioner had been levelled after a gap of four months, for which, no explanation has come on record. The prosecutrix is a married woman. It appears to be a case of consensual sexual relationship between the parties. The trial is likely to take time. Keeping in view the nature of allegations levelled against the petitioner; the period spent by him in custody and attendant facts and circumstances of the case that there is no medical evidence on record to show that the prosecutrix was ravished by the petitioner, I am of the considered opinion that the petitioner deserves to be granted concession of

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bail as no useful purpose would be served by keeping him in custody anymore.

7. Accordingly, the present petition is allowed and 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.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

15.01.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

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