

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

227

CRA-S-3472-2023
Date of Decision: 12.01.2024

Rahul
.....Appellant

Versus

State of Haryana and another
.....Respondents

CORAM: HON'BLE MR.JUSTICE SUMEET GOEL

Present:- Mr. Sandeep Yadav, Advocate for
Mr. R.K. Girdhwal, Advocate,
for the appellant.

Ms. Ankita Ahuja, AAG, Haryana.

SUMEET GOEL, J.

1. Present appeal has been filed against order dated 12.10.2023 passed by learned Additional Sessions Judge, Hisar, whereby the application of the appellant for grant of regular bail under Section 439 Cr.P.C., in FIR No. 107 dated 06.09.2020 registered under Sections 323, 342, 354B, 354D, 376(2)(N), 376(D), 506, 34 IPC and Sections 3(2) (va), 3(1)(w)(i)(ii) & 3(1)(e) of Prevention of Atrocities against Scheduled Castes and Scheduled Tribes Act, 1989 (hereinafter referred to as 'the SC/STAct'), at Women Police Station, Hisar (Annexure A-1), has been rejected.

2. As per the case set up in the FIR is as follows:-

“Statement of Shivani daughter of Surender resident of Rana

Padta Bagh, Sangam Park, A-38 Jhuggi, New Delhi, Scheduled Caste, aged 26 years, education 8th standard, Mobile No.8178081039. Stated that I am resident of the aforesaid address. I do house hold work. We are three brothers and sisters. I am the eldest. I am married and I have two children. One of my son of 4 years and ar.other son is 6 years old. I have strained relations with my husband and due to this reason I reside with my parents. Around 1.5 years back I used to work at Spa (A) one at PVR Mall, Vikaspuri Delhi. During this time Rahul Rathi son of Bharat Singh resident of Gohana Majri, visited the Spa as a customer. At that time Rahul lured me in his talks and he told me that if my husband has left me then he will marry me and that I should make relations with him. Rahul enticed me and he did wrongful acts with me forcefully at 3pa (A) One in PVR Mall, Vikaspuri, Delhi. Subsequently he started talking to me on phone and he said that he will marry me and one time he followed me till my house in Rana Padta Bagh and he misbehaved with me. I had also given a complaint regarding this at P.S. Bharat Nagar, Delhi. Thereafter, Rahul gave threats to kill me and my family and thereafter, he repeatedly gave threats to me and on that pretext he used to call me and he used to forcefully do wrongful act with me. In February, 2020 Rahul called me in his village Gohana Majri (Bahadugarh) and he told me that he had told his parents that I am Brahmin by caste and he asked to refrain to tell anybody that I am SC by caste. Rahul told his family members that he wants to marry me and then I stayed at Rahul's house for one night. Even there he forcefully did wrongful act with me. On that day Rahul took me in the fields and he did wrongful act with me and also made my video. Subsequently after going back to his house I narrated the entire incident to the Bhabi of Rahul and she said that I should gave a complaint to the police and so called on 100 number. The police took me to P.S. Badali and a compromise was effected between us. Then I went to my house at Delhi and Rahul used to repeatedly call me and he used to blackmail me that he has my videos and photos and on that pretext he used to threatened me. Then he called me to Azadpur Sai Hotel and even there he did wrongful act with me and gave beatings to me. He forced me to tell my parents that I am going out for some work and he forcefully made me sit in the bus and took me to Hisar.

After coming to Hisar he took me to a Hotel near Jindal Chowk whose name I cannot tell. We stayed one room for two days where he kept on doing wrongful act with me and by giving threats to me he kept me confined in the hotel room. On third day Rahul called his friend Rohit and he took money from him and Rahul said to me that I should do wrong acts with Rohit. When refused to do so then both of them Rahul and Rohit tore of my cloths and after giving beatings to me both of them did wrongful acts with me. On the next day Rohit returned back. I asked Rahul to bring cloths to me and thereafter, he did not return. I ask for help from the employees of the hotel, who gave me a T-shirt and Rs. 10/- and I set in auto and came to the Women Police Station. I got my statement recorded and read, which is correct. Strictest legal action be taken against them. Sd/-Shivani. Attested SD/-Rajni, LAC. 06.09.2020.”

3. Learned counsel for the appellant has argued that after completion of investigation, challan has been presented & the material witnesses stand recorded. The testimony of the prosecutrix has also been recorded on 18.02.2022. Learned counsel for the appellant has further argued that it is actually a case of consensual relationship between the appellant and the prosecutrix, which later on turned sour due to supervening circumstances. Accordingly, learned counsel for the appellant prays that the appellant be admitted to regular bail.

4. Counsel for the State, on the other hand, contends that the impugned order has been passed considering the totality of the circumstances of the case. All the grounds raised by the appellant have been considered and dealt with in their proper perspective by the trial Court. Therefore, the appellant is not entitled to the concession as prayed for.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The appellant is in custody since 10.09.2022; investigation was completed whereinafter challan stood presented on 16.10.2021 & 16 PWs out of total 24 prosecution witnesses stand examined. The testimony of the prosecutrix has also been recorded in Court. The appellant is in custody for the last more than 3 years & 4 months. In my considered opinion, in the facts and circumstances of the present case, further detention of the appellant is not warranted.

7. In view of totality of factual matrix of the present case, the instant appeal is allowed. Appellant is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the concerned learned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned learned CJM/Duty Magistrate, the appellant shall remain bound by the following conditions:-

- (i) The appellant shall not mis-use the liberty granted.
- (ii) The appellant shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The appellant shall not absent himself on any date before the trial.
- (iv) The appellant shall not commit any offence while on bail.
- (v) The appellant shall deposit his passport, if any, with the trial Court.
- (vi) The appellant shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.

(vii) The appellant shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the appellant.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

January 12, 2024
poonam

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>