

2024:PHHC:004228

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-57951-2023

Date of decision: 12.01.2024

Sandeep

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rajesh Lamba, Advocate for the petitioner.
Ms. Priyanka Sadar, AAG Haryana.
Mr. Mannu Sheokan, Advocate for
Mr. Sandeep Kumar Tada, Advocate for the complainant.

SUMEET GOEL, J.

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.314 dated 02.06.2023, registered for the offences punishable under Sections 376, 406 IPC; (Sections 323, 506 & 34 IPC deleted later on) at Police Station Sonipat City, District Sonipat.

2. The case set up in the FIR in question is as follows:-

To SHO PS City Sonipat. It is prayed that I, Neelam wife of Amit, am a resident of Chara and I used to stay at Sector-23, Sonipat with both my children. My daughter Pratibha used to wrestle in Yudhvira Academy and my son was studying in 9th class at Shambhudayal school. I met Sandeep son of Rajbir through one Deva bhai whose security office is in Bahalgarh. Office name is Sivata security. For getting a job, I started talking to Sandeep. Sandeep used to visit an office of friend at Sector-23. He started visiting my house and he was taking information of my home then he came to know that my husband does not stay with me and taking benefit of this he forcibly raped me, I made noise then my daughter came and he beat my daughter and showed a gun and threatened to kill. My

daughter went for complaining then Sandeep made her sit in the vehicle and took her to office of Gauraksha Dal Kakroi road and beat her and my daughter went away from there on account of fear of beatings. I do not know where she is gone, I vacated the house that night only. Sandeep kept me at flat no. C-52 for 3 months at Metromax flat. He did not disclose about family members about this. I was told that after a child will be born then I will tell and told me that I will marry you. When his family members came to know then they came to beat me at Metromax fiat and we came out after saving ourselves and they took away idols of God from the mandir in the flat and Silver Payal, earrings and golden ring. Sandeep kept on moving with me for 15 days then he took a flat at Bahadurgarh which belonged to Gupta property dealer. There family members of Sandeep came and gave me beatings. Sushila mother of Sandeep hit me on my stomach, Somi sister of Sandeep, Jaideep brother of Sandeep, mausi's son of Sandeep showed me a gun and told me to move away. Father of Sandeep was also involved, one other person in the name of Lehna and besides this there were 3 other persons and I do not know their names and they left one boy named Sujal for keeping an eye on me. They did not allow me to file a complaint and also did not get my medical conducted. After 3 days he called family members of Sandeep and family members of Sandeep again gave me beatings. This incident is of 31.5.2023. All the medical documents are with family members of Sandeep and they took away my mobile phone also and my mobile has 9,75,000 and it has been taken from my phone. The entire record is in my mobile. I have apprehension of threat to property and I have child of Sandeep in my womb. I and my child be protected. It is prayed to take strictest action against them. Both my activas which I had for last 6 months bearing no. HR 13N2907 and HR 13Q6105 be returned and he got prepared documents about the relationship 15 days ago with force. Kindly take strict legal action against them and justice be granted to me. SD: Neelam 9588734711 Neelam W/O Amit address Village Purkhas Rathi Pana Satish s/o Dayanand (Satita) against Sandeep 8818015888 s/o Rajvir Village Rathdhana (Sonipat) Sujal 9138192368”

3. Learned counsel for the petitioner has argued that the petitioner (herein) and the complainant were in a live-in-relationship and certificate dated 16.05.2023 (copy whereof has been appended as Annexure P-5 with the petition) was also got executed & the present FIR is primarily an

outcome of the said relationship having fallen apart. Learned counsel, while submitting that the petitioner and the complainant were living as husband and wife since long, has sought to rely upon the statement of Parveen Kumar recorded under Section 161 of Cr.P.C. (copy whereof has been appended as Annexure P-4), statement of Narinder Bhardwaj recorded under Section 161 of Cr.P.C. (copy whereof has been appended as Annexure P-6) as also the statement of one Himanshu Gupta recorded under Section 161 Cr.P.C. (copy whereof has been appended as Annexure P-7). Therefore, it is prayed that the petitioner be granted the concession of regular bail.

4. Learned State counsel as well as counsel appearing for the complainant have opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail.

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

6. The petitioner is in custody since 29.09.2023 & challan has been presented on 16.10.2023 wherein total of 29 prosecution witnesses have been cited. As per the custody certificate dated 10.01.2024 filed by the learned State counsel, the petitioner is not shown to be involved in any other case. The rival contentions regarding the existence of live-in-relationship between the parties as also the same having been turned sour will be gone into during the course of trial. Though the learned counsel for the complainant has argued that there is apprehension of the petitioner trying to influence the complainant before recording of her testimony in Court as a prosecution witness but apart from this bald assertion no tangible material in

the form of any complaint etc. made to any police authority etc. in this regard has been brought forward. In considered opinion of this Court, the concession of regular bail cannot be denied to the petitioner only on the basis of such an assertion made by learned counsel for the complainant during the course of arguments. Further, no tangible material has been brought on record to show that there is likelihood of the petitioner absconding from the process of justice or interfering with any other prosecution evidence. Hence, in considered opinion of this Court, further detention of the petitioner is not warranted.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner 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/Illaqa Magistrate.
- (vii) The petitioner 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 petitioner.
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
Ajay

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