

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58418-2023 (O&M)

Reserved on: 01.02.2024

Date of Decision:- 13.02.2024

NAVNEET ALIAS NITU

...PETITIONER

VS.

STATE OF HARYANA

..... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Saneev Kodan, Advocate,
for the petitioner.

Mr. Kirpal Singh Thakur, A.A.G., Haryana.

HARPREET KAUR JEEWAN, J.

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. 0060 dated 06.04.2023 (Annexure P-1) under Sections 328, 376 (2) (n), 377 and 506 of the IPC registered at Police Station Women, District Rohtak.

2. As per the version of the prosecutrix, the petitioner is a friend of her husband and prosecutrix was having differences with her husband for last about 05 years and she was residing along with her mother. On 28.08.2020 when she was alone, petitioner visited her house and he brought some juice. The complainant felt vertigo on consuming the said juice and thereafter, the petitioner forcibly committed wrong act with the prosecutrix. When she regained consciousness, the petitioner threatened the prosecutrix to make their video viral to his friends, and on social media and he also

threatened to kill her. Thereafter, the petitioner had been insisting the prosecutrix to leave her husband as he wanted to get married to her. The petitioner had been repeatedly sexually abusing the prosecutrix on the pretext of performing marriage with her. The father of the prosecutrix is working in Police Department. On 04.04.2023, the petitioner took the prosecutrix to her father's Government quarter on motor-cycle, he again gave juice mixed with some intoxicants to the prosecutrix and thereafter, the petitioner made oral sex and again shoot a video. The petitioner threatened that his father is in Police Department and she cannot take any action against him. He also got signed some papers but he had been continuously threatening the prosecutrix to tarnish her image by showing the video to his friends and other known people.

3. Counsel for the petitioner further contends that the petitioner and the complainant were living together in a 'live in relationship' and both have also executed Live-in-Relationship Agreement dated 28.03.2023 (Annexure P-6). After registration of previous FIR No. 87 on 15.03.2023, the complainant has executed the said agreement with the parties but subsequently she got registered the present FIR in collusion with her husband namely Rocky. It was a consensual relationship between the parties. The complainant used to visit the family of the petitioner which is evident from the photographs Annexures P-7 and P-8. Even after the arrest of the petitioner, the complainant had visited the house of the petitioner to meet his mother and demanded money. The entry at the official gate, in the new police complex regarding her visit is recorded at serial No. 79, dated 06.10.2023 at 03:10 p.m. (Annexure P-9) and entry dated 16.09.2023 is also recorded as Annexure P-10. The video recording contained in a

compact disc (Annexure P-11) shows that the complainant had demanded money from the mother of the petitioner. As per the FSL report given by the Regional Forensic Science Laboratory, Sunaria, Rohtak, dated 19.04.2023 (Annexures P-14 and P-15). Semen could not be deducted on some of the exhibits and the presence of any poison or drug was also not found.

4. It is contended that the petitioner is on bail in the other two FIRs registered against him. The learned Sessions Judge, Rohtak, vide order dated 22.09.2023 (Annexure P-4), has granted anticipatory bail in FIR bearing No. 87, dated 15.03.2023, which was registered under Sections 384, 354-D and 506 of the IPC. The petitioner has also been admitted to bail by the trial Court in FIR No. 95, dated 27.09.2023, registered under Section 174-A IPC, as per the order dated 06.11.2023 (Annexure P-1).

5. Learned counsel for the State contends that after the registration of the FIR, medical examination of the complainant was got conduct in General Hospital, Rohtak and as per the opinion of the doctor possibility of sexual intercourse cannot be ruled out. Statement of the prosecutrix under Section 164 Cr.P.C. was also recorded wherein she has supported her case.

6. Learned State counsel further contends that the petitioner did not appear to join the investigation on receiving a notice under Section 41-A of the Cr.P.C. and later on he was declared proclaimed offender as per order dated 16.09.2023 passed by the Judicial Magistrate. However, subsequently he was arrested on 27.09.2023. During the investigation, the CAF ID, location chart and CDR of the related mobile numbers of the prosecutrix and of the petitioner have been obtained from the Nodal

Officer. The mobile phone of the petitioner was sent for CFSL Panchkula for examination.

7. The State counsel has confirmed that the investigation is complete. '*Challan*' has been filed before the trial Court. However, there are total 17 witnesses who are yet to be examined.

8. The State counsel further contends that there are two others FIR lodged against the petitioner, i.e. FIR No. 87, dated 15.03.2023, under Sections 384, 354-D and 506 of the IPC registered at Police Station Urban Estate, Rohtak and FIR No. 95, dated 27.09.2023, under Section 174-A of the IPC, registered at Police Station Women, District Rohtak. Prayer of dismissal of the petition was made.

9. I have considered the aforesaid contentions raised by counsel for the petitioner, as well as by the State counsel.

10. No doubt the investigation is complete. However, the petitioner was declared as a proclaimed offender before he could be arrested and there is an history of other two cases registered against the petitioner one of which was has been registered at the instance of the prosecutrix. If the trial Court decides to frame the charges, the statement of the prosecutrix will be recorded during the trial. The prosecutrix got lodged the present FIRs against the petitioner after he was released on anticipatory bail, vide order dated 22.09.2023 (Annexure P-4). The allegations of the petitioner that prosecutrix has executed an agreement of live in relationship with him, and the counter-allegations of complainant that petitioner got signed some documents are matter of trial. Complainant is material witness. Her statement is yet to be recorded. Therefore, at this stage, it is not a fit case to release the petitioner on regular bail as there is

apprehension of tamper with the prosecution evidence.

11. Consequently, the present petition stands dismissed.
12. However, it is made clear that nothing expressed hereinabove
would be construed to be an expression of opinion on merits of the case.
13. Pending miscellaneous applications, if any, also stand disposed
of.

(HARPREET KAUR JEEWAN)

JUDGE

February 13.02.2024

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Whether Speaking	Yes
Whether Reportable	No