



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
217

CRM-M-57352-2024(O&M)

Date of Decision: 11.12.2024

Buta Singh

....Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Ms. Ashu Rana, Advocate for the petitioner.

Mr. Aditya Pal Singla, A.A.G., Haryana.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 483 of The Bharatiya Nagarik Suraksha Sanhita for grant of regular bail in case FIR No. 35 dated 06.02.2024 (Annexure P-1) under Sections 363, 366A, 376(2)N, 506 IPC and 6 of POSCO Act, registered at Police Station City Bawani Khera, District Bhiwani, Haryana.

Learned counsel for the petitioner *inter alia* submits that the present FIR (Annexure P-1) was registered on the basis of the statement made by the victim herself, which reads as under:-

"I, XXXX daughter of XXXXXX am resident of Sippar. My age is 15 Years. Buta Singh son of Sh. Bira Singh resident of Sippar was harassing me and was committing wrong act with me for the last many days. On dt. 06.02.2024 at night at time about 2/3 AM he took me to the field of his uncle (chacha) on bike by enticing me and forcibly



committed wrong act with me. Anybody else was not present there. When I said that I will tell this at home then he gave threats to kill me. Legal action be taken against him.”

Learned counsel for the petitioner submits that in actual fact, the relationship between the petitioner and the victim were consensual in nature. In this regard, the letters written by the victim to the petitioner had been produced before the learned Additional Sessions Judge, Bhiwani as Ex. D1 to Ex. D9 and Mark ‘DA’ and Mark ‘DB’, which have been admitted by the complainant/victim in her testimony as PW8. Learned counsel refers to testimony of the victim (Annexure P-2) wherein the victim in her cross-examination has stated as follows:-

“I have seen letter Ex.D1 to Ex.D9 which are in my hand. I scribed the same. Self stated I scribed on asking of accused Buta Singh. I have seen Mark ‘DA’ and mark ‘DB’ which are also in my hand writing. I never talk with accused Buta Singh telephonically. I had disclosed about the letters to my family members.”

It is accordingly submitted that from the above letters, it is clear that the relationship between the petitioner and the victim were consensual in nature.

Learned counsel for the petitioner further submits that the petitioner has been in custody since 06.02.2024 as undertrial. No useful purpose would be served by further detention of the petitioner in custody. Thus, it is prayed that the present petition may be allowed, and the petitioner be released on regular bail.

Learned counsel for the State opposes the prayer made on behalf of the petitioner and on instructions from LSI Mukesh Kumari,



submits that the victim in the present case was only about 15 years of age, whereas the petitioner was about 23 years of age. It is submitted that the victim in her statement under Section 164 Cr.P.C, as also in her testimony as PW8 has supported the prosecution case.

Learned counsel for the State further contends that DNA has matched with the samples submitted by the petitioner.

Learned counsel for the State, on instructions, further informs that out of total 23 prosecution witnesses, 15 witnesses including the victim have been examined so far.

Learned counsel for the State files custody certificate dated 09.12.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 10 months and 02 days. A copy thereof has been supplied to learned counsel for the petitioner.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case including the fact that: a) the custody period of 10 months and 02 days undergone by the petitioner as an undertrial; b) material witness i.e. victim stands examined; c) out of total 23 witnesses, 15 witnesses been examined so far; and d) therefore, the conclusion of trial will take considerable time and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is allowed.

The petitioner-Buta Singh S/o Balbir Singh @ Beera Singh, is ordered to be released on regular bail on his furnishing bail/surety



bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

Pending application, if any, stands disposed of.

11.12.2024

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No