

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204 CRM-M No.62838 of 2023
Date of decision: 04.01.2024

DILSHAD Petitioner
Versus
STATE OF HARYANA Respondent

CORAM: HON’BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Saleem Ahmed, Advocate for the petitioner.

Mr. Arjun Lakhanpal, Addl., A.G., Haryana.

MANISHA BATRA, J. (oral)

1. The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
01	02.01.2023	Bichhor, District Nuh	376-D, 450, 323 and 506 of Indian Penal Code, 1860

2. The brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint filed by the complainant-‘S’ (name withheld) alleging therein that on 01.01.2023 at about 11 PM she was sleeping in her house, when the petitioner-accused along with co-accused Sarukh entered therein and both of them ravished her turn by turn while extending beatings to her. She was also extended threat to be killed. The alarms raised by her had attracted her father who had reached there and caught hold of them. After registration of FIR, investigation proceedings were initiated. The petitioner and the co-accused

were arrested. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently the petitioner along with co-accused are facing trial for commission of aforementioned offences.

3. It is submitted by learned counsel for the petitioner that he has been falsely implication in this case. Neither the prosecutrix nor her parents have supported the version of the prosecution before the trial Court and have turned hostile and even the FSL report did not support the prosecution version. The petitioner is in custody for a period of over 1 year. The trial is likely to take time. He further submitted that co-accused Sarukh has since been extended benefit of regular bail vide order dated 30.11.2023 passed by co-ordinate Bench of this Court in CRM-M-48612-2023 (Annexure P-7). On the ground of parity and even otherwise, the petitioner also deserves to be extended the same benefit. Hence, it is urged that the petition deserves to be allowed.

4. Custody certificate dated 03.01.2024 filed by the respondent-State is taken on record. Learned State counsel has argued that there are serious allegations against the petitioners and therefore, the present petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner and learned State counsel and I have gone through the record.

6. The petitioner along with co-accused Sarukh who has since been extended benefit of bail, is alleged to have committed gang rape upon the prosecutrix on the night of 01.01.2023 after entering into her house. However, the petitioner has placed on record copies of statements of the prosecutrix as

well as her parents (Annexures P-3 to P-5) as recorded before learned trial Court wherein, they are shown to have given a total go-by to the prosecution version levelling allegation that the petitioner and co-accused had committed rape upon her. All these witnesses are shown to have turned hostile. Trial is likely to take time. The petitioner is in custody since 02.01.2023. Keeping in view the period spent by him in custody, the nature of the evidence that has come on record in the form of testimonies of the material witnesses including that of the prosecutrix, on the ground of the parity and the attendant facts and circumstances but without meaning to make any comments on the merits of the case, I am of the considered view that the petition deserves to be allowed. Hence, the same is allowed and the petitioner is ordered to be admitted to bail subject to her furnishing personal as well as surety bonds to the satisfaction of the learned trial Court concerned.

04.01.2024.

Jyoti-IV

(MANISHA BATRA)
JUDGE

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