



CRM-M-58576-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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Date of decision:03.12.2024

GHANSHYAM
VERSUS
STATE OF HARYANA
...PETITIONER
...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Surinder Gaur, Advocate for the petitioner.

Mr. Sharad Aggarwal, DAG, Haryana.

SUVIR SEHGAL J. (ORAL)

1. This is the 3rd petition filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “B.N.S.S.”) for grant of regular bail in:-

FIR No.	Dated	Police Station	Sections
378	07.08.2021	Meham, Rohtak	363 and 366 of IPC, 1860 (whereas the <i>challan</i> has been presented under Sections 328, 366, 376(2)(n) and 506, IPC)

2. Version of the prosecution is that FIR was registered on the statement of S.... (name withheld) mother of the prosecutrix on the allegation that her youngest child, J... (name withheld) aged about 20 years left her paternal home on 07.08.2021 at about 2.00 P.M., without informing and Ghanshyam (present petitioner), a married man, has enticed her on the pretext of marriage. While giving her description, the complainant requested that her daughter be located.

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3. Counsel for the petitioner urges that after the prosecutrix was recovered, a statement under Section 164, Cr.P.C., was recorded, wherein she stated that the accused has not misbehaved with her nor has he committed any wrong act. Counsel asserts that the prosecutrix stated that she is known to the accused, who is her friend and serious allegations of sexual assault have been levelled against the petitioner as an after thought as the prosecutrix was forced to change her version. By referring to the testimony of the prosecutrix, he argues that she accompanied the petitioner to different places of her own volition and the alleged offence never took place. By referring to the report dated 28.01.2022, Annexure P-5, of the Regional Forensic Science Laboratory, Haryana, Sunaria, Rohtak, he contends that no poison, drug or ethyl alcohol could be detected from the samples taken from the prosecutrix and the offence under Section 328, IPC, is not made out. He submits that as the material prosecution witnesses have been examined and the petitioner, who is in custody since 09.08.2021, deserves to be enlarged on bail.
4. Per Contra, learned State counsel, upon instructions from SI Narender, has opposed the petition by submitting that the petitioner is accused of a heinous offence and after forcing prosecutrix to consume a cold drink laced with an intoxicant, he sexually abused her. He has invited the attention of the Court to the report dated 29.10.2021, Annexure P-4, of the Forensic Science Laboratory to submit that human semen has been detected on the



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- personal clothing of the prosecutrix. As per his instructions, 19 out of 26 prosecution witnesses are yet to be examined, though he could not dispute that the crucial witnesses have stepped into the witness-box. Custody certificate dated 27.11.2024 has been filed by the State, which is taken on record.
5. I have heard counsel for the parties and considered their respective submissions.
6. The veracity of the allegation levelled against the petitioner would be determined by the Trial Court. Both the vital prosecution witnesses i.e. the prosecutrix and the complainant, have been examined and most of official witnesses are yet to be summoned. Petitioner has been in custody for the last almost 40 months and there is a remote possibility of an early conclusion of the trial. This Court is, therefore, inclined to accept the prayer made in the petition.
7. Without advertng to the merits or de-merits of the arguments addressed, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
8. Any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

03.12.2024

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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No