

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

202

CRM-M-64272-2023

Date of Decision: 26.04.2024

Manoj

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Akashdeep Singh, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. Saurabh Dalal, Advocate for the complainant.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 261 dated 07.06.2023 (Annexure P-6) registered under Sections 328, 354-A, 376(2)(n) and 506 IPC at Police Station Kalanaur, District Rohtak.

The aforesaid FIR was registered on the basis of a complaint moved by the victim herself, which reads as under:-

“Sir, the facts of the case are that a complaint No.737-Peshi dated 07.06.2023 was received in Police Station from Office of Superintendent of Police Rohtak, the contents of which are as under, "To, the Superintendent of Police Rohtak. Subject: Complaint regarding committing of rape, preparing vulgar video, issuing threats of viraling the video, blackmailing and threat of life and defaming in society. Sir, it is submitted that I, xxxx daughter of xxxx, am a resident of village Nigana, District Rohtak. A person namely Manoj son of Krishan

resident of Hisar bypass Rohtak has set-up a quack shop in our village, who is married. On account of my illness I used to go to him many times for taking medicines and at the time on the pretext of giving injection and check-up, he prepared my video secretly. When I used to go to his shop he tried to blackmail me by viraling said video and molest me. Thereafter, in August 2020, he started making whatsapp call and messages to me and started pressurizing to establish physical relations with him and threatened that otherwise he would viral my video in whole village. Thereafter, he keep on chasing me and in the month of January 2021, when I have gone to Gaur College, Rohtak for giving examination of MA through distance education, Manoj met me there and while issuing threat of making viral the video he asked me to accompany him and thereafter he would delete the video. Thereafter, he took me to the hotel near bus stand Rohtak where he served coffee to me and thereafter I fell unconscious. When I open my eyes I was naked in the room of that hotel. Manoj committed rape with me against my wishes by administering some intoxicant substance to me. Manoj told me that he had made another video of mine and now I could not do anything and by giving threats of making viral those videos, Manoj committed rape with me many times in the month of April-May, 2021 in the same hotel and 3-4 times in his shop in village Nigana in the month of March. Thereafter, when my examination was to be held in February 2022, he took me to the same hotel and committed rape with me and used to issued threat of life to me that if I told about it to anyone. Due to being defamed in society, I kept on tolerating all this out of fear. Now, during last few months my mother arranged matrimonial alliance for me at three place Hisar, Rewari and Bhiwani and every time Manoj used to severe these alliances by showing the video. I have been much defamed. Manoj has made viral my video and issued threats of life to me. I have disclosed the whole thing to my parents. Therefore, you are requested to initiate appropriate action against accused Manoj and the life and property of myself be protected.....”

Learned counsel for the petitioner, *inter alia*, submits that the petitioner was in a consensual relationship with the victim/complainant. It is submitted that the petitioner was previously married and due to matrimonial discord, he had filed a petition (Annexure P-1) under Section 13 of the Hindu Marriage Act, 1955, before the learned

Family Court, Rohtak, on 17.07.2020. It is further submitted that in the month of August, 2020, the petitioner met the victim/complainant as has also been stated in the FIR and subsequently, a consensual relationship was developed between both of them. This is also evident from the photographs (Annexure P-2) and also from the chat (Annexure P-3) between the parties. Thereafter, the relationship between the parties soured and accordingly, resulted in filing of the present FIR. Learned counsel for the petitioner contends that as per the contents of FIR, the first incident took place in the month of January, 2021 and last incident was in the month of February, 2022, however, the aforesaid FIR was lodged several months thereafter, i.e., on 07.06.2023, which itself shows that the relationship between the parties was consensual. Further, it is submitted that the petitioner has a medical condition, inasmuch as, he is suffering from seizure attacks, as is evident from medical record (Annexure P-11) and in this regard, learned counsel for the petitioner also refers to the reports (Annexures P-12 and 13) received by the Jail Authorities from the PGIMS, Rohtak, wherein it has been clearly stated that petitioner suffers from seizure attacks. The petitioner is taking anti-seizure medication as he has Fibrosis in Brain. The petitioner has been in custody since the date of his arrest i.e. for the last more than 08 months. Thus, it is prayed that the present petition may be allowed and the petitioner be released on regular bail.

Per Contra, learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and submits that serious allegations have been levelled against him in the FIR. It has

also been submitted that the petitioner had threatened the victim that he would make her objectionable photographs go viral. Mobile phone of the petitioner has also been sent to the Forensic Science Laboratory, Madhuban and the report is still awaited. Learned counsel for the State also refers to the reply dated 10.04.2024, filed by way of affidavit of Sh. Rajeev, Deputy Superintendent of Police, Kalanaur, District Rohtak and submits that copy of entry register of the hotel (Annexure R-3) depicts that the petitioner and the victim both have submitted their Aadhar Cards and entered in the hotel on 28.02.2022.

On instructions, learned counsel for the State informs that challan has been presented before the learned trial Court on 03.11.2023, however, charges are yet to be framed against the petitioner and the next date of hearing before the learned trial Court is 27.05.2024. Learned counsel for the State has filed custody certificate dated 25.04.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 08 months and 18 days. Perusal of custody certificate also reveals that there is one more FIR registered against the petitioner bearing FIR No. 32 dated 10.02.2023, under Sections 323, 406, 498-A and 506 IPC registered at Police Station Women, Rohtak, District Rohtak.

Learned counsel for the complainant does not oppose the prayer for grant of regular bail to 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; the custody period undergone

by the petitioner and also the fact that trial has not commenced as the same is still at the stage of framing of charges, therefore, its conclusion 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-Manoj S/o Late Shri Krishan 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.

26.04.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No