



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M-61444-2024(O&M)

Date of Decision: 11.12.2024

Ram Niwas

....Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Ms. Sunayana Gupta, 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. 13 dated 05.01.2024 (Annexure P-1) under Sections 346 IPC (Section 328, 376(2)(N), 506 IPC and Section 67(A) of the IT Act, added later on by investigating agency) registered at Police Station Rania, District Sirsa, 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 mother of the victim, which reads as under:-

"To, Chowki Incharge Sahab Kariwala Sir, I request that I am Indra Devi wife of Jai Singhwasi Mammankheda. I do hard labour work. My daughter XXXX got married about two and a half years ago in Tazia. My daughter has a 2-year-old girl. My daughter left her daughter at Tazia and



came to meet us. She had gone to Kaherwala to get clothes from home on 04-01-2024 at 10 AM. I have been inquiring about her among my relatives and have been searching for her on my own, but I could not find my daughter. My daughter is fair in complexion, has a round face, healthy body, height is 5 feet 7 inches. She is wearing a orange coloured embroidered suit or a orange coloured salwar or a orange coloured dupatta and white embroidered shoes on her feet and there is a black mole on the right side near the nose and a black mark on the left side which my daughter has hidden herself or someone has hidden her. Legal action should be taken and my daughter should be searched.”

It is submitted that a perusal of the above said FIR clearly shows that initially a missing person report was lodged by the complainant; and that the petitioner is not named in the FIR. Learned counsel for the petitioner submits that the prosecutrix in the present case is a married woman having a 2-year-old daughter. On the date of incident i.e. 04.01.2024, the prosecutrix had willingly accompanied the petitioner to Bikaner, where the petitioner was doing a job. Thereafter, she was recovered after 1 month i.e. on 04.02.2024 from Bikaner.

Learned counsel for the petitioner further submits that however, in her statement recorded under Section 164 Cr.P.C., the prosecutrix has alleged that the petitioner had committed rape upon her in the year 2020 and had made an obscene video of the prosecutrix, whereafter he was blackmailing her. It is contended that firstly, there was no complaint whatsoever registered by the prosecutrix in respect of the alleged incident of the year, 2020. Furthermore, even as per the final



report under Section 173 Cr.P.C. (Annexure P-4), no electronic evidence has been recovered during investigation substantiating the allegation of the prosecutrix that the petitioner had made an obscene video of the prosecutrix on the basis of which he could have been blackmailing her.

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 submits that as per the MLR (Annexure P-2), the victim has given the history of sexual assault (at page 18 of the paper book), which reads as under:-

“As per history given by victim herself, in Feb 2020, a person named Ramniwas s/o Mahender Singh who is her distant relative, at Rudra Hotel in Sirsa after giving her some drink he raped her and made a video. After that he started blackmailing her with that video. He forced her to have multiple sexual intercourse with him from 2020 till March 2021. She got married in April 2021, in Jan 2024 he contacted her through instagram and again blackmailed her. He asked her to meet him in Bikaner. On 04/01/2024 she went to Bikaner and met him. He again had sexual intercourse with her multiple times. Last history of sexual intercourse is on 02/02/2024.”

Learned counsel for the State further submits that the victim in her statement under Section 164 Cr.P.C., has supported the prosecution



case; however, admits that as per the final investigation report (Annexure P-4), no electronic evidence has been recovered against the petitioner to substantiate the allegation of obscene video of the prosecutrix.

Learned counsel for the State, on instructions from ASI Sunil Kumar, informs that challan in the present case was presented on 29.04.2024; charges were framed on 24.07.2024; and out of total 26 prosecution witnesses, none has been examined so far.

Learned counsel for the State files custody certificate dated 10.12.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 10 months and 03 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 03 days undergone by the petitioner as an undertrial; b) no other case is pending against the petitioner as evident from the custody certificate placed on record; c) out of total 26 witnesses, none has 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-Ram Niwas S/o Mahender, 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:	Yes/No
Whether reportable:	Yes/No