

CRM-M-61092 of 2024

2025:PHHC:017997



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-61092 of 2024

Date of decision: 06.02.2025

Sandeep

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. S.S. Majithia, Advocate with
Mr. Raman Chawla, Advocate,
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Aditya Sanghi, Advocate,
for the complainant.

NAMIT KUMAR, J.

1. Instant petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case FIR No.251 dated 18.09.2023 registered under Sections 323, 354-B, 365, 376 and 506 IPC (Section 342 IPC added lateron in report under Section 173 Cr.P.C. dated 09.11.2023) at Police Station Nathu Sarai Chopta, District Sirsa, during the pendency of trial.

2. FIR in the present case was registered on the complaint of prosecutrix dated 18.09.2023, alleging therein that she is a household lady.

On 17.09.2023 at about 05.00 p.m., she was standing at bus stand of village

CRM-M-61092 of 2024

2025:PHHC:017997



Rupana Ganja in order to go to her parental home at village Kirdan. Sandeep came there and forcibly made her sit in the vehicle. She resisted but the petitioner did not listen to her. She raised alarm but nobody was there and he took her towards Hisar. His vehicle was of white colour. He forcibly tore her clothes and committed rape upon her in that vehicle in village Banwali Dand. He took her to Hisar in the night and he kept her in that vehicle during night and in the morning, he stopped the vehicle at a *Dhaba* towards village Chandanpur and ran from there by leaving her there at a *Dhaba*. From there she came to Hisar in an auto and took a mobile from an unknown lady and made a phone call to her mother Kaushalya to whom she told the entire incident. Her family members brought her back from Hisar. The petitioner also threatened to kill her if she told about the incident to anyone.

3. Learned counsel for the petitioner has contended that the petitioner is innocent has been falsely implicated in the present case as he has not committed the alleged offence. He further contended that petitioner and the prosecutrix belong to the same village and there was consensual relationship between them. Learned counsel contended that the prosecutrix is a 30 years old married lady having two children and just because their affair could not convert into marriage, therefore, she has levelled false allegations against the petitioner. He further contended that there are material contradictions in the statements of the prosecutrix in the FIR, statement recorded under Section 164 Cr.P.C. and statement recorded before the trial Court, which prove the innocence of the petitioner. He contended that in her complaint on the basis of which FIR was registered, she has stated

CRM-M-61092 of 2024

2025:PHHC:017997



that she was standing at bus stand of village Rupana Ganja in order to go to her parental home at village Kirdan. Sandeep came there and forcibly made her sit in the vehicle. However, in her statement under Section 164 Cr.P.C. she gave a totally new version that one boy abducted her forcibly in **Bolero vehicle** and he committed rape with her inside the vehicle. Learned counsel contended that the prosecutrix further changed her stand in her statement while appearing as PW2 wherein she has stated *“I was standing at the bus stand of Village Rupana Ganja for going to my matrimonial house at Village Kirdhan. In the meantime, one **Tata Sumo** came there, when I boarded the same I saw that no other passenger is sitting in it, so I make an effort to come out of it but in the meantime, accused Sandeep, present in the Court, made me to sit forcibly in said vehicle. Thereafter, he roam me in the vehicle on the road. When the accused forced me to sit in the vehicle, I raised alarm but no one was present there. Thereafter, accused committed rape upon me on the way in between village Dhand and Banawali in this process, accused also torn my cloth.....”*. Learned counsel further contended that allegation of the prosecutrix stands falsified by her medico-legal report which shows that no external injury mark was found over her whole body and no external bruise, scratch, bite mark. Learned counsel further contended that petitioner is behind bars since 18.10.2023; investigation in the present case is complete; challan has been presented; charges have been framed; out of total 18 prosecution witnesses only one witness i.e. complainant has been examined as yet whereas PW-1 Shanker

Lal has been examined in chief, therefore, the trial may take a considerable

CRM-M-61092 of 2024

2025:PHHC:017997



time to conclude. He further contended that petitioner is not involved in any other case. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

4. *Per contra*, learned State counsel, assisted by learned counsel for the complainant, while filing custody certificate dated 05.02.2025 and status report has opposed the prayer of the petitioner for grant of regular bail by submitting that the petitioner has forcibly committed rape upon the complainant. However, she has not disputed that petitioner is in custody for the last 01 year 03 months and 17 days; investigation in the present case is complete; challan has been presented; charges have been framed; out of total 18 prosecution witnesses only one witness i.e. complainant has been examined as yet and the petitioner is not involved in any other case.

5. I have heard learned counsel for the parties and perused the record.

6. Although, it is the main contention of the petitioner that all the statements of the complainant, whether given at first instance to register the FIR or recorded under Section 164 Cr.P.C. or given in the trial during prosecution evidence, are contradictory to each other, however, it is a matter of trial and the trial Court has to evaluate the correctness and authenticity of such statements to ascertain the guilt of the accused, but the facts that in one statement the complainant is stating that she has herself boarded the vehicle and there she found that the accused was alone in the car and in subsequent statements she is stating that the accused has forcibly abducted her in the vehicle, *prima facie* creates some doubts, therefore, weightage of such



contradicting statements cannot be ignored while adjudicating this petition preferred by the petitioner, who is behind bars since 18.10.2023 and, therefore, without expressing any opinion on the merits of the case and keeping in view the custody of the petitioner, which is 01 year 03 months and 17 days; investigation in the present case is complete; challan has been presented; charges have been framed; out of total 18 prosecution witnesses only one witness i.e. complainant has been examined as yet; petitioner is not involved in any other criminal case and trial is likely to take a considerable time, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

- 7. The petition stands disposed off accordingly.
- 8. However, nothing observed hereinabove shall be construed as an expression of opinion on the merits of the case.

06.02.2025

R.S.

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No

(NAMIT KUMAR)

JUDGE