

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

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**CRM-M-34981-2021
Decided on : 02.09.2021**

Sachin

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Devender Arya, Advocate
for the petitioner(s).

Mr. Gagandeep Singh Chinna, AAG, Haryana
assisted by ASI Arun Kumar.

MANJARI NEHRU KAUL, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No. 0009, dated 24.01.2019, under Sections 342, 363, 366-A, 376-D of IPC and Section 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 6/8 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Satnali, District Mahendergarh, Haryana.

Learned counsel for the petitioner contends that the false implication of the petitioner in the crime in question is writ large from the different versions/statements given by the prosecutrix (aged 17 ½ years) ever since her recovery on 26.01.2019, i.e. two days after which she went missing *qua* which her mother too had reported to the police. In support of his contentions, learned counsel for the petitioner has referred to the

statements made by the prosecutrix under Section 164 Cr.P.C. on 26.01.2019 (Annexure P-2), her statement recorded before the C.W.C. on 18.02.2019 (Annexure P-6) and thereafter as prosecution witness, when she deposed as PW-1 on 25.07.2019 (Annexure P-10) before the trial Court.

In particular, learned counsel has invited the attention of this Court to the following material improvements and contradictions made by the prosecutrix in the aforementioned statements:-

“Statement made under Section 164 Cr.P.C.:-

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xx xxx xx

I went to NBCE Coaching Center, Mahendergarh, when I was coming, then Sandeep S/o Karan Singh started forcing me that come with me. I refused. He forced outside the Center when Mani saw, then he told to Kiran Madam, Kiran got me released. Sandeep threatened Kiran that Amisha will come to me in 30 minutes. I went inside the Coaching Center. At 4 PM I went along with Priyanka in the Bus. I got off at Dalanwas. From there, I came back from the street. I was scared, due to fear I went ahead on the hill. From behind two boys were coming, I hid myself on seeing them. There was dark. When I was coming down from the hill, then in a black coloured car two boys forcibly put me in and tied my hands-feet and a black bandage on my eyes. They took me to a Ruin. My hands were untied. Both forcibly raped me. Dressed me again and tied the hands. It was a deserted place. Thereafter, today they took me to village -sic- and they forcibly gave a cut of blade on my wrist with my hand itself, tried to kill me. The both had big beard. One of them was a lean skinny, black coloured.

Statement made before C.W.C.:-

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xx xxx xx

She told that on 23.1.2019 at about 10:30 (AM) she left the home for going to M/garh, then she sat in a Pick-up, then in the Pick-up, Sandeep S/o Karan Singh, age 26 years, resident – Dalanwas also sat on the seat in front of me. We came together till M/garh. After coming to M/garh I went to Computer Center. He followed me to the Center too.

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I was carrying a Blade I cut my hand with the same, because i wanted to die. I kept on sitting on the hill of Madhogarh till night. At night, from there i came to the Railway Station of M/garh. I took train from Railway Station and went to Rewari. I enquired there, then came to know that there is no train for Delhi, then I kept on sitting at the Railway Station for whole night.

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I went to Delhi and I took phone from a shopkeeper and called to Sachin, age 19 years, R/o Dalanwas, Sachin told that you come to Anand Vihar, I will meet you there. The girl told that from there she went to Anand Vihar and Sachin met me there and he took me to maharajpur Ghaziabad in UP. There Sachin was residing in a rented house and one more person was residing with him. But he used to come in the night only. I stayed in the said house for 3 days. Sachin made relations with me, but before making relations, he had asked me and I had consented. He made relations with me 3 times in 3 days. After 3 days Sachin left me at Badna village and went back. Sachin had given me the promise of marriage that i will marry you and also told that i am employed in Army. But when the Police arrested him, then it was found that he was lying. On 26.1.19, when he left me back, then he told that i will not marry you. Girl told that i had friendship with Sachin since the school time, but i had stopped talking for some time.

Statement made before the trial Court as PW-1:-

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xx xxx xx

I informed Sachin on telephone regarding Sandeep had tried to forcibly act with me and he asked to come to Delhi but he himself came to Mahendergarh. Sachin took me to UP and Gaziabad and he kept me to his room under threat and Sachin committed rape upon me against my will and he further threatened to me that if i disclosed to anyone and he has made my video and they would viral the same. Thereafter, he left me at Bus Stand of village Kadma. I informed to my family members on telephone. Thereafter, my family members took me alongwith them.”

Besides this, learned counsel has also referred to Annexures P-12 & P-13, which are the FSL report dated 04.02.2019 and the DNA report dated 06.05.2021, respectively. As per the said reports, the semen detected on the case property sent to it did not match with the DNA profile of the petitioner.

Learned counsel in the aforementioned facts & circumstances has prayed that as the petitioner has been in custody since 30.01.2019, he be extended the concession of bail, as only 16 out of the 34 prosecution witnesses cited, stand examined, which also include the material witnesses.

Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Arun Kumar, has not been able to controvert the submissions made by learned counsel for the petitioner, with respect to the contradictory statements made by the prosecutrix ever since her recovery and even during trial.

Heard.

In view of the submissions made by learned counsel for the parties and keeping in view the fact that petitioner has been in custody since 30th January, 2019. I deem it a fit case for grant of the concession of regular bail to the petitioner, as the trial is unlikely to conclude in the near future. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

September 02, 2021

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*