

2023:PHHC:099940

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

208

CRM-M No.7310 of 2023
Date of Decision: 03.08.2023

Narender

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Bhisham Kumar Majoka, Advocate
for the petitioner.

Mr. Amrik Singh Narwal, DAG, Haryana
for the respondent-State.

MEENAKSHI I. MEHTA, J. (Oral)

By way of the instant petition, the petitioner has sought the relief of anticipatory/pre-arrest bail in the criminal case arisen out of FIR No.2 dated 08.01.2023 registered at Women Police Station, NIT Faridabad, District Faridabad, under Sections 8 & 12 of the POCSO Act and Section 506 IPC (wherein the offence under Section 6 of the POCSO Act is stated to have been added later-on).

2. Bereft of unnecessary details, the allegations, as levelled by the complainant (here-in-after to be referred as 'P') against the petitioner in the subject FIR, are that she was having friendship with him (petitioner) but subsequently, she came to know that he was on talking terms with some other girls also and when she refused to continue the relationship with him

due to the said reason, he started stalking her ('P') and also took an amount of Rs.30,000/- from her while threatening that otherwise, he would send the audio-clips regarding her conversation, as recorded by him, to her family members. Thereafter, during her statement before the Member of the Child Welfare Committee, District Faridabad, 'P' alleged that the petitioner had forcibly taken her to a hotel-room and had got her name entered as Radhika in the record and had ravished her there and he had prepared the video-clip of the said occurrence and had started black-mailing her by threatening that he would make it (video-clip) public.

3. At this stage, Mr. Manoj Kumar Sood, Advocate, has put in appearance on behalf of the complainant in this case and has submitted his Power of Attorney in the Court and the same is taken on the record.

4. Status-report on behalf of the respondent-State (by way of the affidavit of Assistant Commissioner of Police, Women Safety, Faridabad) has already been filed, along-with Annexures R-1 to R-4 and the vernacular versions of Annexures R-2 and R-3.

5. It is worth-while to mention here that vide the order dated 18.04.2023, the Co-ordinate Bench had granted the relief of interim bail to the petitioner and had directed him to join the investigation. Today, learned State counsel, on the instructions from SI Sushila from the afore-said police station, informs the Court that though the petitioner had joined in the investigation but he had not co-operated with the Investigating Agency.

6. In view of the above-discussed submission of learned State counsel, learned counsel for the petitioner submits that he would prefer to

address the arguments on the merits in the present petition and accordingly, I have heard him as well as learned State counsel (assisted by learned counsel for the complainant) in the instant petition and have also perused the file carefully.

7. Learned counsel for the petitioner contends that as per the certificate Annexure P-11 issued by the Anganwadi Worker, the date of birth of 'P' is 11.12.2004 and thus, she ('P') was more than 18 years old at the time of the alleged occurrence and he also contends that at the time of lodging the FIR as well as in her statement recorded under Section 164 Cr.P.C, 'P' did not level the allegation qua her having been raped by the petitioner and rather, she has levelled this allegation later-on, by improving her earlier versions and he further contends that the family members of 'P' caused injuries to the petitioner and his family members as reported in their Medico-Legal Reports Annexures P-2 to P-6 and in these circumstances, the petitioner deserves the relief, as prayed for in the present petition.

8. Per-contra, learned State counsel argues that in the Secondary Examination Certificate of 'P', her date of birth is recorded as 11.12.2005 and in view thereof, it becomes crystal clear that she was a minor at the time of the commission of the crime and keeping in view the nature of the offence committed by the petitioner, the instant petition be dismissed.

9. Though, in the afore-referred certificate Annexure P-11, the date of birth of 'P' has been mentioned to be 11.12.2004 but however, the truthfulness and genuineness of the said certificate, can and shall be looked into and adjudicated upon by the trial Court at the appropriate stage after

appreciating and evaluating the evidence, that may be led on the record during the course of the trial and the same cannot be ascertained at the stage of dealing with this petition, especially in the circumstances when as per the date of her birth recorded in her above-said Secondary Examination Certificate, 'P' was minor at the time of alleged commission of the offence in the present case.

10. Further, as regards the contentions qua 'P' having improved her version in the statement recorded by the Child Welfare Committee and regarding her family members having caused the injuries to the petitioner and his family members as detailed in their afore-mentioned Medico-Legal Reports, these would, again, be the subject matter for consideration before the trial Court at the relevant stage and the same cannot be determined at the time of deciding the instant petition.

11. Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the relief of anticipatory/pre-arrest bail. Resultantly, the petition in hand stands dismissed accordingly.

03.08.2023
neetu

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No