

209

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

CRM-M-24816-2023

Date of decision : 19.05.2023

Abhay @ Rohan Chaurasiya**.....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. Shiv Kumar, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

*********RAJESH BHARDWAJ, J. (Oral)**

This is the second petition filed by the petitioner praying for grant of regular bail in case FIR No.143 dated 18.07.2021, under Sections 384, 366 of IPC (Section 366-A deleted and Section 366 IPC added later on) & Section 506 IPC; Sections 4, 12 of POCSO Act, Section 419 of IPC and Section 8 of POCSO Act added later on, registered at Women Police Station Ballabhgarh, District Faridabad, Haryana.

Adumbrated facts of the case are that the statement of the prosecutrix (name concealed) was recorded wherein she alleged that she was 14 years 02 months of age. In her uncle's shop one Rohan was working as servant. She knew him as he was working in her uncle's shop. On one day, Rohan expressed his desire to be friendly with her. However, later on, he apologized and realized his mistake. Thereafter, he left the job from her uncle's shop and opened his own shop in the vicinity. On one day, he called the prosecutrix to his shop and she went in his shop. Thereafter, Rohan tried

to take disadvantage of her being alone there but she returned back. Thereafter, he made call on the mobile phone of her mother which she attended. He told her that he has made her obscene photo and in case, she did not meet him he would make it viral on social media. He threatened her to bring money from her home. Being afraid, she took the money from her home without informing anyone but Rohan kept on blackmailing her. Thereafter, on one day he took her on the motorcycle under threat to Oyo Hotel and there, he committed rape upon her. He kept on blackmailing her that in case she disclose anything, he would make her videos viral on social media. The prosecutrix being afraid, she did not disclose the same to anyone. However, thereafter, she gathered her courage and disclosed it to her family members and thus, the matter was reported to the police with the prayer to take legal action against the accused. On the basis of the complaint made, FIR was lodged and investigation commenced. Her statement under Section 164 Cr.P.C. was recorded before the Magistrate and her medical was conducted and on completion of the investigation, challan was presented. Petitioner was arrested on 18.07.2021. Thereafter, he approached this Court by way of filing the petition praying for grant of bail. However, the same was dismissed as withdrawn vide order dated 18.05.2022. Thereafter, he approached the Court of learned Additional Sessions Judge, Faridabad praying for grant of bail. However, the same was declined by learned Additional Sessions Judge, Faridabad vide order dated 13.03.2023. Hence the petitioner has approached this Court by way of present second petition praying for grant of bail.

It has been contended by counsel for the petitioner that the petitioner has been falsely implicated in this case. He has submitted that as per case of prosecution, petitioner was working as servant in the uncle's shop

of the prosecutrix and both were having friendly relations with each other. He further submits that the allegations pertaining to making of obscene photos and videos of the prosecutrix are totally false and frivolous. However, there is no evidence regarding the same. He submits that in the facts and circumstances of the case, the relationship between the petitioner and the prosecutrix at the most can be consensual as there has been no resistance from the prosecutrix throughout the period when the relationship had been alleged between both of them. He submits that the ocular version is not even medically corroborated. He has however, submitted that the petitioner was working as a servant in the uncle's shop of the prosecutrix and thereafter, he opened his own shop in the vicinity of her uncle's shop and hence, family of the complainant entered the grudge against him and on account of the same, he has been falsely implicated in the present case. He submits that prosecutrix and her uncle who are the material witnesses already stand examined and thus, there cannot be any apprehension that the petitioner can influence the material witnesses. He has submitted that petitioner has no criminal antecedents and he is behind bars from last about 02 years whereas, the prosecution could not examine even half of the witnesses cited and hence, he deserves to be granted bail in the facts and circumstances of the case.

Learned State counsel, on the other hand, has opposed the submissions made by counsel for the petitioner. He submits that the prosecutrix in this case is a minor and even if she was the consenting party, the same would be of no legal consequence. He submits that the statement of the prosecutrix was recorded under Section 164 Cr.P.C. wherein she has duly supported the case of the prosecution. Besides this, medical conducted also corroborates her ocular version. He submits that now the prosecutrix

has been examined and she has duly supported the case of the prosecution. He submits that as per the instructions provided, petitioner has no criminal antecedents. He further submits that out of 25 prosecution witnesses, only 04 witnesses have been examined including the prosecutrix and her uncle.

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

Evidently, petitioner and the prosecutrix knew each other as the petitioner was working as a servant in the shop of her uncle. He was arrested on 18.07.2021 and since then, he is behind bars. Out of 24 prosecution witnesses, 04 witnesses including the prosecutrix have been examined from the last about 02 years which shows that trial would take sufficient long time. There is nothing on record to show that the petitioner has any criminal antecedents. Needless to say that the speedy trial is the right of every accused.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

19.05.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No