

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

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**CRA-S No.1947 of 2023
Date of decision: 02.11.2023**

Suresh

... Appellant

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Namit Khurana, Advocate,
for the appellant.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J.

1. The instant appeal has been filed by the appellant against the order dated 17.03.2023 passed by learned Additional Sessions Judge, Karnal in case bearing FIR No.193 of 2022 initially registered under Sections 376 (3), 376 AB, 450 IPC and 6 POCSO Act at Police Station Gharaunda, Karnal on the basis of a written complaint submitted by complainant 'M' (name withheld) alleging that on 02.04.2022 at 11 AM, the victim who was his granddaughter (name withheld), was alone in her house when the appellant entered therein and committed rape upon her. After registration of FIR, investigation proceedings were initiated. The victim was got medico legally examined. Subsequently, offence under Section 3 (2) (v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)Act, 1989 (For short "SC&ST Act") was also added. The

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statement of the victim under Section 164 of Cr.P.C. was recorded. The appellant was apprehended and arrested on 07.04.2022. He was interrogated and suffered disclosure statement admitting his involvement in the subject crime. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P.C. was presented in the Court for trial of the appellant and personally he is facing trial for commission of the aforementioned offences. He moved an application for grant of regular bail which was dismissed by learned Fast Track Special Court vide order dated 17.03.2023 specially constituted for dealing with cases under the POCSO Act at Karnal.

2. The present appeal has been filed on the grounds that it was argued by learned counsel for the appellant that he had been falsely implicated in this case. There was no medical and scientific evidence on record to support the case of the prosecution that the victim had been subjected to rape by the appellant. The old enmity between the father of the victim and the son of the present appellant had been admitted by the complainant. No case for commission of offence under the provisions of SC&ST Act had been made out at all. The trial was likely to take time. The statement of the prosecutrix and complainant had already been recorded and there were no chances of the appellant intimidating the witnesses. Hence, it was argued that the appeal filed by the appellant deserved to be allowed and he deserved to be released on bail.

3. Per contra, it was argued by learned State counsel that there were serious and specific allegations against the appellant. The

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complainant and the prosecutrix had deposed in support of the case of the prosecution. Heinous crime had been committed by the appellant ravishing a ten year old child. Hence, it was argued that the appeal did not deserve to be allowed.

4. The appellant who was about 50 years old at the time of occurrence is alleged to have entered into the house of the complainant as on 02.04.2022 and is alleged to have ravished eight year old granddaughter of the complainant. The copy of medico legal report of the victim has been placed on record by the respondent-State which shows that abrasions were found on both sides of perineal region and over the buttock near the anterior to anal region of the victim. Though as per the FSL report, seminal stains were detected on the undergarment of the appellant and not on the person of the victim or on the clothing worn by her, but the sworn deposition of the victim has since been recorded by learned trial Court and copy of the same has been annexed with this appeal which shows that she had deposed in support of the case of the prosecution. Though it is shown to have admitted by the victim in her sworn deposition that son of the appellant had assaulted her father who had even been taken to the hospital but no inference can be drawn from the same that the appellant had been falsely implicated due to that reason. The allegations against the appellant are specific and serious in nature. The trial is going on and there is nothing to suggest that there would be any undue delay in conclusion of the same. Gravity of the offence is an important consideration for the purpose of granting/denying concession

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of bail to an accused. Taking into account the nature of the subject offences, the quantum of the sentence which the conviction may entail and the attendant facts and circumstances, I am of the opinion that the appeal does not deserve to be allowed. Hence, the same is dismissed.

02.11.2023
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(MANISHA BATRA)
JUDGE

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