

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
219 CRM-M-42251-2023 (O&M)
Date of decision: 31.08.2023

Manish

...Petitioner(s)

Vs.

State of Haryana

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Amit Parashar, Advocate
for the petitioner.

Ms. Deep Shikha Chauhan, AAG Haryana.

NIDHI GUPTA, J.

Prayer in this first petition filed under Section 439 Cr.P.C.

is for grant of regular bail in case FIR No.56 dated 26.05.2023 under Sections 6 and 17 of POCSO Act and Sections 328 and 506 IPC (Section 419 IPC added later on) registered at Police Station Women, Ballabgarh, District Faridabad.

2. FIR in the present case was registered on the basis of statement of father of the prosecutrix and the same reads as follows:-

"To The Incharge Women Police station Ballabgarh Sir, it is requested that I Vinod Kumar S/o Shri Bhagwati Prasad is the resident of Rakesh Gujar Wali Gali, Subhash Colony, Ballabgarh. My daughter, who is 16 years old, has been enticed by a boy named Prashant for the last three months and trapped in his love. For the first time on 01/4/23, my daughter was forced to have physical relations with him at Shanti OYO Place Hotel, Railway Road, Ballabgarh by giving her intoxicating substances (pills). After that, again on 19/05/23 in the same hotel, at around 2 pm, he called her by blackmail and had forced physical relations with my daughter. When my daughter refused, Prashant even threatened to kill my daughter. After that, Khaleel, Prashant's friend came along with Prashant to our house and threatened to kill that if

someone files an application with the police, they will kill us or our daughter. Legal action should be taken against Prashant and Khalid. Justice should be given to us. My daughter told me all these things today. Because my daughter had cut her hand. Appropriate legal action should be taken....”

3. Learned counsel for the petitioner inter alia submits that the victim in the present case is 16 years old. Complainant is the father of the victim. It is submitted that the petitioner before this Court is not even named in the FIR and has been arrested only on the basis of disclosure statement of the main accused. The petitioner is the Manager of the hotel where the minor victim and the main accused stayed and the only allegation against the petitioner is that he did not properly verify the identity of the accused and the prosecutrix when they came to the hotel on 19.05.2023. It is submitted that the main accused Prashant was arrested on 26.05.2023 and co-accused Khalil was arrested on 27.05.2023, and the petitioner has been in custody since 13.06.2023 under Section 17 of the POCSO Act.

4. Learned counsel further submits that the petitioner is only one of the partners of the Shanti OYO hotel where the alleged incident had occurred. It is stated that even the transfer of Rs.300/- made into the account of the petitioner by the main accused cannot be held against the petitioner, since the petitioner had taken the hotel on lease being one of the partners and therefore, there was nothing wrong in him accepting the money in his own account. Learned counsel further submits that the petitioner has only been arrested on the basis of disclosure statement of the co-accused Prashant and there has been no allegation by the victim

against the petitioner that he had done any overt act in connivance with the main accused Prashant.

5. Notice of motion.

6. Ms. Deep Shikha Chauhan, AAG Haryana accepts notice on behalf of the respondent-State and files custody certificate dated 30.08.2023 which is taken on record. As per the said custody certificate, the petitioner has undergone 2 months and 18 days in custody.

7. Learned State Counsel submits that the victim in the present case is only 16 years old and the petitioner was an active accessory to the crime and he can be held liable for the acts of the main accused Prashant as he deliberately and intentionally gave room to the main accused Prashant without verifying the Aadhaar card of the girl to ensure whether the girl accompanying the main accused Prashant is the same girl as that mentioned in the Aadhaar card. Learned State Counsel submits that upon investigation it was found by the police that on 19.05.2023, the main accused Prashant had given Aadhaar card of one Jyoti to the petitioner. However, as per the CCTV footage, it was the present victim who was found to be in the hotel. Similarly on an earlier occurrence also i.e. on 26.03.2023, the said accused Prashant had given Aadhaar card of one Preeti to the petitioner, whereas, in actual fact, he was accompanied by the present prosecutrix to the hotel of the petitioner. Learned State Counsel further submits that this was not a case of single visit and at least two instances have been recorded on 26.03.2023 and 19.05.2023 when the main accused Prashant gave the Aadhaar card of one Preeti and one Jyoti and took the

victim to the hotel. Learned State Counsel further contends that it was the duty of the petitioner to verify that the person visiting the hotel is the same person who is mentioned in the Aadhaar card.

8. Learned counsel for the State submits that further the petitioner has also received a sum of Rs.300/- in his personal bank account from the main accused Prashant. It is submitted that as such the petitioner is liable for illegal activity carried out in his hotel. It is further submitted that challan has been presented in the present case on 19.07.2023 and trial is yet to commence. The prosecutrix and other private witnesses have not been examined in the present case and therefore, there is every apprehension that the petitioner may tamper with the evidence if he is released on bail.

9. I have heard learned counsel for the parties.

10. Without commenting on the merits of the matter, however keeping in view the totality of facts and circumstances of the case, I find no ground is made out at this stage to interfere with the impugned order dated 14.08.2023 whereby the second bail application filed by the petitioner under Section 439 Cr.P.C. before the learned Additional Sessions Judge, Fast Tract Special Court, Faridabad, has been dismissed. Present petition accordingly stands **dismissed**.

11. Pending application(s) if any also stand(s) disposed of.

31.08.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No