

CRA-S-2699-2023 (O&M)

1

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

218

CRA-S-2699-2023 (O&M)

Reserved on : 08.11.2023

Date of decision:-15.11.2023

Jagmohan Singh

... Appellant

Vs.

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. G.B.S. Dhillon, Advocate for the petitioner.

Mr. Kunwarbir Singh, AG, Punjab.

Ms. Harpreet Maini, Advocate for respondent No.2.

Manisha Batra, J. (Oral)

1. The instant appeal has been filed by the petitioner against the order dated 04.08.2023 passed by the Court of learned Additional Sessions Judge, Moga, in case bearing FIR No.74 dated 01.05.2023 registered under Sections 376 and 506 of IPC read with Sections 3(2)(v) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC & ST Act') at Police Station Baghapurana, District Moga, whereby prayer made by the accused-appellant for grant of regular bail had been dismissed.

2. Brief facts of the case relevant for the purpose of disposal of this appeal are that the aforementioned FIR had been registered on the basis of statement recorded by the victim "H" (name withheld) on 01.05.2023

CRA-S-2699-2023 (O&M)

2

alleging that she got married with one Jaspreet Singh about 5 years back and had been living at her parental house presently. She alleged that the appellant was on visiting terms with her family from the last about 10 years and used to visit her parental home frequently. He kept an evil eye upon her. He had induced her to enter into physical relationship with him by saying that as both of them were married, therefore, no one would suspect them. She had become pregnant and a female child was born to her out of the loins of the petitioner about 10 months back. From some time, the petitioner had started avoiding her on one pretext or the other and had even stopped responding to her calls. She further alleged that on 28.04.2023, the petitioner had taken her to Baghapurana area and had forcibly committed rape upon her and had thereafter, threatened to kill her. Investigation proceedings were commenced. The petitioner was arrested and presently he is facing trial for commission of aforementioned offences. He had filed an application for grant of regular bail before learned trial Court, which had been dismissed vide order dated 04.08.2023, which is the subject matter of challenge before this Court.

3. It is submitted in the grounds of appeal and learned counsel for the appellant argued that the impugned order was liable to be set aside and he deserved to be given concession of bail as in fact it was not a case of rape. Rather the respondent No.2 i.e. complainant and the appellant were in consensual physical relationship from the last about 3 years. Respondent No.2 was 32 years old. She had made material improvements in her statement recorded under Section 164 Cr.P.C. The trial was likely to take time. Hence, it was argued that appeal deserved to be allowed.

4. The plea taken by the appellant has been resisted by respondent No.1-State in terms of report dated 06.11.2023. It is submitted therein that

CRA-S-2699-2023 (O&M)

3

learned State counsel argued that there were serious allegations against the appellant. In her statement, recorded before the police as well as in her statement recorded under Section 164 of Cr.P.C., the respondent No.2 had levelled specific allegations of her being subjected to rape by the petitioner. The trial was being expedited and the statement of the victim had been recorded in-chief. There were chances of appellant's intimidating the prosecutrix if extended benefit of bail. Hence, he argued that the appeal did not deserve to be allowed.

5. The appellant is alleged to have induced the respondent No.2-complainant to establish physical relations with her on the pretext of marrying her and is further alleged to have backed out from his promise and is also alleged to have subjected her to rape on 28.04.2023. There are specific allegations against the appellant. It is a matter of evidence/trial that the relations between the appellant and respondent No.2 was consensual throughout or that she was subjected to rape against her will and consent as on 28.04.2023? The statement of victim is yet to be recorded before the trial Court. There is nothing on record to show that there would be any undue delay in conclusion of the trial. Keeping in view the nature of the allegations as levelled against the appellant, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this court is of the considered opinion that the appeal does not deserve to be allowed. Accordingly, the same is dismissed.

15.11.2023
pooja saini

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: **Yes/No**