

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRA-S-2930-2023 (O&M)

Date of order: 16.10.2023

Sudhir

.....Appellant(s)

Vs.

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sudhir Rana, Advocate
for the appellant.

Nidhi Gupta, J.

Present appeal under Section 14-A of SC and ST (Prevention of Atrocities) Act, 1989 is filed seeking setting aside of order dated 13.09.2023 vide which the first application under Section 439 Cr.P.C. for grant of regular bail to the appellant in case FIR No.74 dated 08.06.2021 under Sections 354C, 376D, 376-DB, 509 IPC, Section 3 of SC/ST Act, 1989, Sections 66E, 67B and 67 of IT Act, 2000 and Sections 6 and 14 of POCSO Act, 2012 registered at Police Station Women Rewari, District Rewari, has been dismissed.

2. FIR in the present case was registered on the basis of statement made by the father of the victim and the same reads as under:-

"...I, Karan Singh, son of Suhan Singh, resident of Badhrana I am a resident of Andhra Pradesh and work as a machanic/Mason. I come to my house once in 10-15 days. When I came to my house yesterday, I saw my daughter Payal, who is about 9 years old (04.11.11) who studies in 3rd class. Who told me while crying that some children did dirty things to me while playing with me in school. When I asked my wife, she told me that Payal remained scared. My brother Sushil came to

me and told me that in the village, the video of children doing dirty act with Payal on their phones has gone viral. In which many children are doing wrong act with Payal, which my brother had get it on his phone, from the phone of person, in which he had watch it. We saw that video. Sudhir son of Hava Singh, Pramod son of Bijendra, Chirag son of Sushil, Anshu son of Kishan Singh, Priyanshu son of Amrit Lal, Ritesh son of Karn Singh, Naveen son of Ramesh Singh, residents of Badharana are included. Sudhir has shoot a video and made the video viral. When I asked my daughter Payal, she told that the elder boy Sudhir first took off her clothes and raped her and all those children together did a wrong act, this incident happened on 24.05.2021, they treated my daughter very badly. They have done a wrong thing, with my daughter. Legal action should be taken against the above-mentioned boys...”

3. Learned counsel for the appellant inter alia submits that a bare perusal of the FIR reveals that no offence under Sections 354C, 376D, 376-DB, 509 IPC, Section 3 of SC/ST Act, 1989, Sections 66E, 67B and 67 of IT Act, 2000 and Sections 6 and 14 of POCSO Act, 2012, is made out against the appellant. It is submitted that the allegations made in the FIR are false and fabricated. The appellant has committed no wrong act with daughter of the complainant, and even as per the MLR, no offence under the above mentioned Sections is made out against the appellant. Furthermore, as per the FIR, the date of alleged incident is 24.05.2021, however, FIR has been registered on 08.06.2021 i.e. after an unexplained delay of about 10-15 days. It is further submitted that the other co-accused have been released on bail. It is therefore prayed that the appellant be released on bail.

4. Notice of motion.

5.

Ms. Deep Shikha Chauhan, AAG Haryana accepts notice on behalf of the respondent. Learned State Counsel vehemently opposes the prayer for grant of regular bail and submits that the victim in the present case was 9 years old on the date of incident; whereas the appellant is 21 years of age. It is further submitted that the appellant along with other co-accused (who were juveniles), had committed gang rape upon the victim who belongs to SC/ST community. It is stated that even a video of this gang rape was made by the appellant which was made viral within the village of the victim; and that the brother of the complainant had showed the said video to the complainant. It is further submitted that the victim and her parents have supported the prosecution case in their respective testimonies. They have identified the appellant in the video contained in pen drive (Exhibit MO1). Learned State Counsel further submits that custody certificate in the present matter has not been received today, however, admits that the appellant has been in custody since 09.06.2021.
6.

I have heard learned counsel for the parties.
7.

Without commenting on the merits of the matter, however, keeping in view the grave and heinous nature of the allegations made against the appellant, present appeal is **dismissed**.
8.

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

16.10.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No