

Neutral Citation No. 2023:PHHC: 154640

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

104+205

CRM-M-54238-2023 (O&M)
Date of decision: 21.12.2023

Naveen

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Amit Choudhary, Advocate
for the applicant-petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. CRM-53939-2023

Allowed as prayed for.

Documents are taken on record as Annexure P-20.

2. CRM-M-54238-2023 (O&M)

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 288 dated 30.08.2022, registered under Sections 323, 328, 306, 376(1) of the IPC and Section 66(e) of the Information Technology Act, 2000 at Police Station Bhuna, District Fatehabad.

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2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of the statement recorded by complainant 'MK' (*name withheld*) on 30.08.2022 alleging therein that her sister 'M' (*name withheld*) had friendship with one Mukesh. On 22.8.2022, her sister along with Mukesh had gone to Sky Hotel, Uklana for having tea, where she was seen by the petitioner, who is their neighbor. Thereafter, the petitioner had started threatening her sister to disclose about the factum of her staying with Mukesh in a hotel to the villages, if she did not have the physical relations with him. On 26.8.2022, the petitioner had taken the victim to Sky Hotel, where after administering some intoxicating substance to her, he had committed rape upon her. He also prepared a video of the incident. The complainant alleged that her sister had disclosed about the entire incident to her. On 29.8.2022, the victim had left the house in the night without informing anyone and her *Dupatta* was found floating in the canal. As the victim was not traceable, the complainant prayed for taking penal action against the culprit. Initially, a case under Sections 323, 328, 346 and 376 of the IPC and Section 66(e) of the Information Technology Act was registered. The dead body of the victim was recovered on 31.08.2022 from Bhakhra Canal bridge. Offence under Section 306 IPC was also added. Inquest proceedings were initiated and postmortem examination of the dead body of the victim was conducted. The petitioner was arrested on 31.08.2022. He was interrogated and suffered disclosure statement admitting his guilt. Statement of the complainant was recorded under Section 164 Cr.P.C. After completion of necessary investigation and usual formalities, *challan* was presented in Court and presently, the petitioner is facing trial for commission

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of aforementioned offences. He had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 24.11.2022.

3. Learned counsel for the petitioner has argued that no direct evidence has come on record to connect the petitioner with the allegations of committing rape upon deceased victim or abetting her suicide. No suicide note has been left by the victim. The case rests upon hearsay evidence, which is not at all trustworthy. The medical evidence does not prove that the victim had been ravished before her death. The ingredients for commission of offence punishable under Section 306 IPC have not been made out at all. The trial is likely to take some time. No useful purpose would be served by keeping petitioner in custody anymore. Hence, it is urged that the petition deserves to be allowed and the petitioner deserves to be extended benefit of regular bail.

4. Status report has been filed by the respondent-State, as per which, FSL report and DNA report have been received, which show the cause of death of the victim to be Asphyxia, as a result of ante-mortem drowning. It is also submitted that during investigation, aforesaid Mukesh had handed over his mobile phone having SIMs numbers 97285-35198 and 97289-35198, showing whatsapp chatting, which had taken place between him and deceased and the same discloses the conduct of the petitioner. It is submitted that there are serious allegations against the petitioner. There are chances of him intimidating the witnesses or absconding, if extended benefit of bail. Therefore, he has argued that the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

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6. The petitioner, who is a native of the village of the victim, is alleged to have seen her with a boy namely Mukesh in a hotel and is further alleged to have started threatening her and thereafter pressuring her to have physical relations with him, or otherwise to disclose about her meeting with aforesaid Mukesh to the villagers. He is further alleged to have taken the victim to a hotel on 26.08.2022 and as per allegations, after making her drink water mixed with some intoxicating substance, he ravished her and thereafter, by showing that he had prepared a video of the same, he threatened to make the video viral. As per allegations, the victim, having not been able to bear all this, committed suicide on 29.08.2022. The case of the prosecution is that before committing suicide by drowning herself in the canal, the victim had disclosed the entire occurrence to the complainant, who is her sister. Though, at this stage, there is no direct evidence of the petitioner having ravished the victim, however, whatsapp chatting, which had taken place between the victim and her friend Mukesh, prior to her death, and copy of its screenshot, which has been placed on record as Annexure R-7, clearly point out towards the fact that something wrong had happened to her and she was contemplating suicide. The allegations against the petitioner are quite serious in nature as by taking advantage of the fact that the victim was scared of her relationship with Mukesh being disclosed to co-villagers, he threatened her and then ravished her. The evidence of material witnesses is yet to be recorded. There is nothing on record to show that there would be any undue delay in conclusion of trial. Keeping in view the gravity of offences alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that

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the petitioner does not deserve to be given concession of regular bail. Hence,
the petition stands dismissed.

21.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No