

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

284

CRM-M-61556-2023 (O&M)
Date of decision: 14.12.2023

Chet Ram**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. S. K. Bokola, Advocate
For the petitioner.

Ms. Himani Arora, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 197 dated 20.09.2022, registered under Sections 376-DA, 120-B, 328, 506, 34 of the IPC and Section 5J(ii), (L) read with Section 6, 16, 17 of the POCSO Act, 2012 at Police Station City Kotkapura, District Faridkot.

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 'M' (*name withheld*) alleging therein that he along with his siblings, wife, children and father had been residing at Shiv Nagar, Kotkapura. His brother, father and himself used to go to the factory of one Satish Kumar for doing work and used to come back home at 09:00 PM in

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routine. In their absence, his younger daughter 'L' (*name withheld*), who was aged about 14 years and her son along with his wife were left at home. He alleged that on 11.08.2022, he came to know that the belly of his sister was growing bigger and on asking, it was revealed that that in their absence, his wife Neelam used to call 2/3 persons at home and by administering some sedative in the food of his sister, she used to make those persons commit act of sexual intercourse upon his sister. He asked his wife but she did not divulge anything. The victim also told the complainant that his wife Neelam used to take her outside on some pretexts and she was forced to have physical relations with some persons. Neelam was even blackmailing his sister by saying that she had some videos of the acts committed upon the victim. The victim also disclosed the names of two of the persons, who had ravished her as Rahul and Monu. The complainant also disclosed that his wife had fled away from his house and had gone to her native place. He prayed for taking action against the culprits. After registration of the FIR, the investigation proceedings were initiated. The victim was medico-legally examined and was found to be pregnant. The petitioner and co-accused Rahul were arrested on 20.09.2022. After completion of necessary investigation and usual formalities, challan was presented in the Court and now the petitioner is facing trial for commission of aforementioned offences. The petitioner had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 27.10.2022.

3. The present petition has been filed on the ground and it has been argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since 27.10.2022. The material witnesses i.e.

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complainant, the prosecutrix and their brother have already been examined. There are no chances of the petitioner intimidating the witnesses. The conclusion of trial is likely to take some time. The petitioner was not named in the FIR and his name has been included later on. As per DNA report of the child delivered by the victim, DNA profiling of the petitioner has not matched with that of the baby and has rather matched with that of co-accused Rahul. Therefore, the allegations that he had ravished the victim have been falsified. With these broad submissions, it is urged that the present petition deserves to be allowed.

4. *Per contra*, learned State counsel has vehemently argued that there are serious allegations against the petitioner. The trial is likely to complete within reasonable time. The victim, in her sworn deposition, has categorically deposed that the present petitioner as well as co-accused Rahul and Vishal used to visit her house and committed rape upon her. The victim had taken name of the petitioner in her supplementary statement. Hence, it is urged that the petition is liable to be dismissed.

5. The petitioner is alleged to have committed the offence of aggravated penetrative assault upon the minor victim. Some other persons along with co-accused Rahul, who is facing trial along with the petitioner, are also alleged to have committed the same act upon the victim. No doubt, as per DNA report, the DNA profiling of the child delivered by the victim has matched with that of co-accused Rahul but that does not exonerate the petitioner from the allegations as levelled against him, especially in the circumstance when the victim, in her sworn deposition, has categorically deposed about his involvement in the act of ravishing her. There are serious

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

14.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

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