

228 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-337-2024
Date of decision: 13th March, 2024

Umesh Verma @ Goldy

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sachin Gupta, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Harayana.

MANISHA BATRA, J (ORAL):-

This second petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Date	Police Station	Sections
639	30.09.2021	City Panipat (Haryana)	376 AB, 376(2) (n) and 506 of Indian Penal Code, 1860 (for short 'IPC') and Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act')

2. Brief facts of the case relevant for the purpose of disposal of this petition are that a zero FIR No.2 dated 30.09.2021 was registered at Police Station Parsad Nagar, Delhi under Section 376 of IPC and Section 6 of POCSO Act on the basis of statement recorded by prosecutrix who was aged about eleven years old girl and was kept in an NGO, known as

Butterfly home in Delhi, alleging that till 28.08.2021, she used to reside with her parents but thereafter, they had left her at Panipat to live with her grandmother and uncle i.e. present petitioner. She made allegations of her being repeatedly ravished/subjected to aggravated penetrative sexual assault at the hands of the petitioner and also being threatened by him to not to disclose about the acts committed by him to anyone and otherwise he would kill her family. Subsequently, he left her in Delhi. FIR so registered was subsequently transferred to police Station City Panipat as the occurrence had taken place in the jurisdiction of that Court and the instant FIR was registered under abovementioned Sections. The victim was medically examined. Her statement under Section 164 of Cr.P.C. was recorded wherein she reiterated the allegations as levelled in the FIR qua her being harassed and ravished by the present petitioner. The petitioner was arrested on 15.12.2021. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for the commission of the aforementioned offences. He had moved an application for grant of regular bail before the learned trial Court which had been dismissed. The first petition for bail as moved by the petitioner before the Co-ordinate Bench of this Court as CRM-M-45293-2022 had also been dismissed vide order dated 21.08.2023.

3. The instant petition has been filed by the petitioner on the grounds and it is argued by his counsel that the trial is likely to take time as so far only seven witnesses have been examined. The petitioner is in custody

since 15.12.2021. Infact, this FIR was a reaction of the fact that the parents of the victim had been involved in a case bearing FIR No. 414/2021 registered under Sections 302, 394, 420, 411, 467, 471 and 120-B of IPC at Police Station Patel Nagar, Delhi and the petitioner had not extended any support to them. It is further argued that this fact alongwith the period spent by the petitioner after dismissal of his previous bail petition is sufficient to extend benefit of release on bail to him. Therefore, it is argued that petition deserves to be allowed.

4. Status report has been filed by respondent-State. Learned State counsel has argued that thorough investigation has been conducted in the matter. Allegations against the petitioner are serious in nature. The victim who is only an eleven years old girl was living at the mercy of the petitioner and her grand-mother and despite being a close relative of the victim, he not only ravished her repeatedly but also extended threats to her. The trial is at its fag end as out of total fifteen prosecution witnesses, twelve have been examined. The victim also stands examined and has supported the version of the prosecution. Therefore, it is argued that neither there is any change in circumstance and even otherwise no ground to allow this petition as the previous petition filed by him was dismissed on merits.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. On perusal of the material placed on record, it is apparent that the parents of the victim who was a girl of tender age eleven years only had

been confined in custody in connection with some case and the victim was made to live with her grand-mother and the present petitioner who is real uncle of the victim. He is not only close relative of the victim but was also a person in a position of trust. However, by misusing the said trust, he is alleged to have subjected the victim to acts of aggravated penetrative sexual assault. The allegations against the petitioner are grave in nature. His previous bail petition filed before this Court has been dismissed on merits and no such change of circumstances could be pointed out by his counsel on the basis of which it can be stated that he has become entitled to be extended benefit of bail. Keeping in view the allegations levelled against the petitioner, the quantum of sentence which the conviction may entail and the entire facts and circumstance of the case, I am of the considered opinion that the petition does not deserve to be allowed, hence the same is dismissed.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]

JUDGE

13th March, 2024

Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No