

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

228

CRM-M No.2211 of 2024
Date of Decision: 06.05.2024

Akshay

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Harman Jeet Singh Sandhu, Advocate,
for Mr. Jagmeet Singh Moudgill, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

MANISHA BATRA, J.(Oral)

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

FIR No.	Police Station	Sections
365	Rajendra Park, District Gurugram	6 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”) and 363 and 366 of IPC

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on 20.11.2022 on the basis of written complaint submitted by the complainant “S” (name withheld) alleging therein that her daughter “M” (name withheld) aged about 16 years had voluntarily left the house on the night of 13.11.2022 at about 11 PM. She had tried to make search for her

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but could not find her. Initially, a case under Section 346 of IPC was registered. Investigation proceedings were initiated. During investigation, the victim was recovered on 01.12.2022. Her statement was recorded by the police under Section 161 of Cr.P.C. wherein she disclosed that from the last one year, the petitioner with whom she had become friendly, had been taking her to his rented accommodation and by inducing her, he had maintained physical relations with her. On 13.11.2022, he had taken her to Rajasthan and had ravished her against her wishes and also disclosed that on 01.12.2012, the father of the petitioner had brought her to Gurugram. Her statement under Section 164 of Cr.P.C. was also recorded wherein she stated that she had left her house on 13.11.2022, as she had a quarrel with her mother and had gone to Rajasthan with her own sweet will. Her medical examination was conducted. Offences under Sections 363 and 366 of IPC and Section 6 of POCSO Act were added and offence under Section 346 of IPC was deleted. The petitioner was arrested on 01.12.2022. After completion of usual formalities, challan was presented against him and presently, he is facing trial for commission of aforementioned offences.

3. The present petition has been filed on the grounds and learned counsel for the petitioner has argued that he has been falsely implicated in this case. He is in custody since 01.12.2022. The trial is likely to take time. The victim has not implicated him in commission of the subject offences while recording her statement before the trial Court. There is no forensic evidence on record to connect him with the commission of the offence of committing rape upon the victim though FSL report has been received. No useful purpose would be served by his further detention. Therefore, it is

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argued that the petition deserves to be allowed.

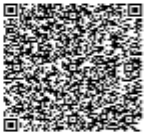
4. Status report has been filed by the respondent-State. Learned State counsel has argued that there are serious allegations against the petitioner and, therefore, he does not deserve to be given concession of bail.

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

6. The petitioner is alleged to have enticed away the minor victim by inducing her and is further alleged to have committed the offence of aggravated penetrative sexual assault upon her. The petitioner has produced on record Annexure P-4 which is copy of statement of the victim as recorded before learned trial Court and a perusal of the same reveals that though she supported the prosecution version to the effect that she had gone missing from her house on 13.11.2022 and had come back on 01.12.2022 but she did not implicate the petitioner in the commission of subject offences at all. She denied that he had ever enticed her away or had ravished her. It is also revealed that she had even declared hostile and was cross-examined in detail by learned Public Prosecutor but nothing incriminating against the petitioner could be extracted from her testimony. Along with the status report, FSL report has been annexed as per which, no semen could be detected on vaginal and cervical swabs of the victim.

7. Keeping in view the nature of the evidence which has come on record, the period of incarceration of the petitioner and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition deserves to be allowed. Hence, the same is allowed and the petitioner is ordered to be

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admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

06.05.2024
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(MANISHA BATRA)
JUDGE

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