

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.1703 of 2024
Date of Decision: 20.04.2024

Vinod ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. K.D.S. Hooda, Advocate,
for the petitioner.

Mr. Arjun Lakhanpal, Addl. AG, Haryana,
for the respondent-State.

MANISHA BATRA, J.

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
468	Kalayath, District Kaithal	376-D, 506 and 120-B of IPC and 6 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”)

2. Brief facts relevant for the purpose of disposal of the instant petition are that the aforementioned FIR was registered on 10.12.2022 on the basis of statement recorded by the complainant “J” (name withheld) alleging therein that on the previous night, his minor daughter “N” (name withheld) was going towards her paternal uncle’s house for the purpose

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of attending a wedding function when she was intercepted by the petitioner and the co-accused, Sahil @ Kala and Adarsh who by gagging her mouth and by forcibly taking her to bara, sexually assaulted her and ravished her turn by turn. After sometime, when she was not found, search was made and her uncle found her while wailing in the bara in a critical condition. The petitioner and the co-accused tried to flee on seeing him. One of them namely, Sahil was tried to be apprehended but after causing injuries to her uncle and extending threat to kill him, he too fled away from the spot. All three of them were identified by her uncle. After reporting the matter to the police and lodging of FIR, investigation proceedings were initiated. The accused Adarsh was found to be innocent. The petitioner was arrested on 07.01.2023. The co-accused Sahil was also arrested. Presently, they are facing trial. The petitioner had moved an application for grant of bail before learned trial Court which was dismissed vide order dated 05.12.2023.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. Neither the victim nor her father or eye-witness “J” have supported the version of the prosecution. All of them have exonerated the petitioner from commission of the subject offences. No mark of injury was found on the person of the victim as per the medico legal examination report. The victim herself admitted that she had never given any clothing to the doctor who had conducted her medico legal examination and further that the clothing, the details of which were mentioned in the medico legal report did not belong to her. The DNA report is in his favour. The trial is likely to take time. The petitioner is in custody since 07.01.2023. His further detention would not serve any useful purpose. Therefore, it is urged that the petition

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deserves to be allowed and he deserves to be given concession of bail.

4. Status report has been filed by the respondent-State. Learned State counsel has vehemently argued that keeping in view the gravity of the allegations, the petitioner does not deserve to be extended benefit of bail.

5. I have heard learned counsel for the petitioner and learned State counsel and have gone through the material placed on record carefully.

6. As per the allegations, the victim had been ravished/being subjected to aggravated penetrative sexual assault on the night of 09.12.2022, while she was on way to the house of her paternal uncle to attend some marriage function. The petitioner has placed on record Annexure P-2 to Annexure P-4 copies of deposition of father of the victim, the victim and of the uncle of the victim, who was claimed to be an eye witness. who has been examined as PW-3. A perusal of the statement of the victim reveals that though she stated that on the fateful night, while she was going towards the house of her uncle, three youths had tried to outrage her modesty but also stated that all three of them were having muffled faces and she could not identify them due to darkness. She further stated that the petitioner and the co-accused were not those persons. She had been declared hostile on request of learned Public Prosecutor and was allowed to be cross-examined by him. Though she admitted that she had been medically examined but denied that her clothing was taken into possession by the Medical Officer and also denied the clothing of the description as mentioned in the medico legal report, or her vaginal swabs were handed over to the police by the Medical Officer. In this manner, she is shown to have given complete go bye to the prosecution case with regard to her being ravished at the hands of the petitioner. Even the eye-witness PW-3 "J" is shown to have

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stated that he had no knowledge about the case and that no offence was committed by the petitioner and co-accused Sahil with his niece at any point of time. Then though the complainant who is father of the victim is shown to have stated that three youths had tried to outrage the modesty of the victim on the night of 09.12.2022, but he too did not support the prosecution version any further and did not identify the petitioner as one of the ravishers of his daughter. The DNA report also does not connect the petitioner with the allegations in FIR. Keeping in view the nature of the evidence that has come on record in the form of testimonies of the material witnesses including that of the victim who have not supported the version of the prosecution, 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 lest the same prejudices the case of the prosecution, I am of the opinion that the petitioner deserves to be released on bail. Accordingly, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

20.04.2024
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(MANISHA BATRA)
JUDGE

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