

CRM-M-3162-2024

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219 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-3162-2024
Date of decision: 12th January, 2024

Sachin

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vikas Gulia, Advocate for the petitioner(s)
Mr. Neeraj Poswal, A.A.G., Haryana
for the respondent-State.
Ms. Rashi Sehrawat, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

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

FIR No.	Dated	Police Station	Sections
160	23.03.2023	Kharkhoda, District Sonipat	342, 354-D, 363, 366, 376 and 506 of Indian Penal Code, 1860 and Sections 4, 12 of Protection of children from of sexual offences, 2012 (for short ‘POCSO’) (Section 328 of IPC and 66 of Information Technology Act, 2000 (for short ‘the IT Act’)

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 23.03.2023 a written complaint was filed by one Amit Kumar alleging therein that prosecutrix (name withheld) was her minor daughter studying in a local school. On 01.01.2023, she had told him that the present petitioner was stalking her from last many days and even despite efforts being made by her to prevail good sense upon him, he was

continuing in his actions. On this, the complainant had talked to the petitioner who had agreed to stay away from his daughter. He alleged that after few days, the petitioner had entrapped the prosecutrix in his love and had even provided a cell-phone to her. On the night of 28.01.2023, on being induced by him, the prosecutrix had mixed some sleeping pills in their dinner due to which all the family members became unconscious and taking advantage of the same, the petitioner had taken away his minor daughter in a car to his house wherein he had held her as a hostage against her will. He had taken her obscene photographs, had captured videos and had also sexually harassed her. The complainant further alleged that on the next day, however, the prosecutrix managed to make a call to the father of the complainant informing him that she had been kept as a hostage in Village Chhanauli by the petitioner and his family members and on hearing so, they had gone there and got their daughter recovered. The petitioner and his family members had pressurized to get the marriage of their daughter performed with the petitioner and had otherwise extended threats to make her photographs and videos viral. He further alleged that on 04.02.2023, the petitioner along with his father came to his house and had again extended threats to perform marriage of prosecutrix with him otherwise be ready to face dire consequences.

3. As per the further allegations, after registration of FIR investigation proceedings were initiated. The statement of victim was recorded under Section 164 of Cr.P.C.. Offences under Section 328 of IPC and Section 66 of Information Technology Act, 2000 were also added. The petitioner was arrested on 24.03.2023. After completion of necessary

presently, the petitioner is facing trial for commission of aforementioned offences. He had moved an application for grant of regular bail before learned trial Court which was dismissed vide order dated 04.01.2024.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. He is in custody since 24.03.2023. The trial is likely to take time. Neither the petitioner nor his family members have been found involved in the said subject offence before learned trial Court. No useful purpose would be served by keeping him in custody. Therefore, it is argued that the petition deserves to be allowed.

4. Learned State counsel on the other hand argued that DNA report is still awaited. The allegations against the petitioner are serious in nature. In her statement recorded under Section 164 of Cr.P.C., the prosecutrix had made specific allegations against the petitioner. Therefore, it is urged by him that the petition does not deserve to allowed.

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. The petitioner is alleged to have committed offence of stalking the prosecutrix by following her with an intention to contact her to foster personal interaction repeatedly and is further alleged to have enticed her away and kept her confined in a house. As per the further allegations, he also committed rape upon her and criminally intimidated her after making her consume some stupefying substance and as per the allegations, threats were also extended by him and his family members to the prosecutrix and her

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she disclosed about the incident to anyone. However, on perusal of Annexures P-4 to P-6 which are copies of statements of prosecutrix, her father and grand-father respectively as recorded before the learned trial Court, it is revealed that neither of them have implicated the present petitioner in the commission of subject offences. Rather all of them are shown to have taken U-turn from the statements as previously recorded. A perusal of the statement of the prosecutrix reveals that she had categorically stated before the trial Court that nothing had happened with her and no offence whatsoever had been committed by the petitioner or his father with her. To the similar effect are the statements of father and grand-father of the victim. In view of the nature of the evidence which has come on record in the form of statements of material witnesses, coupled with the fact that the petitioner is in custody since 24.03.2023, the trial is likely to take time and that no useful purpose would be served by detaining him in custody but without meaning to make any further comments on the merits of the case, I am of the considered opinion that the petition deserves to be allowed. Hence, the same is allowed, the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. Since the main petition has been disposed of, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

12th January, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |