

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.4090 of 2024
Date of Decision: 22.04.2024

Jagdish @ Jagdish Kumar ... Petitioner

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Harsh Chopra, Advocate,
for the petitioner.

Mr. Satjot Singh, AAG, Punjab.
for the respondent-State.

Mr. Manoj R.Sharma, Advocate,
for the complainant.

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
0027	City Rupnagar, District Rupnagar	452, 343, 354, 363, 366 and 376 of IPC and 6 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”) (109 of IPC added later on)

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the prosecutrix “A” (name withheld) had recorded her statement before Chairperson Child Welfare Committee, Rupnagar (For short “CWC”) on 09.02.2023 alleging therein that the present petitioner who used to live on the second floor of the same rented

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accommodation in the first floor of which, she had been residing with her mother, used to harass her. On 31.01.2023, taking advantage of her being alone in her room, he entered therein forcibly and by catching hold of her and removing her clothing, attempted to commit rape upon her. However, on her raising alarm, he fled from the spot. She disclosed that the incident was narrated to her mother but she did not believe her and then while confiding in her friend "P" she had disclosed about the incident to her. She further disclosed that her friend "P" then got her introduced with one Seema and the said Seema had induced her to reside with her to which she had agreed and had started staying with her (Seema). She also made allegations that the abovesaid Seema had started getting her sexually exploited by facilitating commission of act of rape upon her by some male and by taking her to a far away village and keeping her confined there. Detailed allegations were made against the said Seema. This statement was forwarded by the Chairperson, CWC to SSP Rupnagar on which the aforementioned FIR was registered. During the course of investigation, the statement of the prosecutrix under Section 164 of Cr.P.C. was recorded. She was medically examined. The petitioner had been arrested on 09.02.2023 and is presently facing trial.

3. Learned counsel for the petitioner has argued that the FIR in this case had been lodged after unexplained delay. The mother of the prosecutrix has not supported the prosecution version and rather has supported the petitioner. The DNA detected on the clothing of the prosecutrix has not matched with the DNA blood profiling of the petitioner. Infact, the petitioner has been implicated falsely by the prosecutrix as admittedly she was having a dispute with him and his wife as well. It is also argued that the allegations for commission of offence of rape/aggravated

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penetrative sexual assault are not upon the petitioner. The allegations qua commission of offences under Sections 343, 363 and 109 of IPC are also not against him. The prosecutrix already stands examined. There are no chances of his intimidating the witnesses or fleeing. Therefore, it is urged that he deserves to be released on bail.

4. Status report has been filed by the respondent-State. Learned State counsel has argued that there are specific and serious allegations in the FIR which have been duly supported by the testimony of the prosecutrix that he sexually harassed her and tried to ravish her as on 31.01.2023. Accordingly, it is argued that he does not deserve to be given concession of bail.

5. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

6. The petitioner has placed on record Annexure P-3 copy of statement of mother of the prosecutrix who is shown to have specifically stated that the petitioner had not committed any wrong act with her daughter and that her daughter had an altercation with him previously. Annexure P-4 is copy of statement of the prosecutrix showing that the allegations that the petitioner had entered in her room on 31.01.2023 and had tried to make physical relations with her by forcibly removing her clothing have been reiterated by her. The petitioner is in custody since 09.02.2023. The material witnesses have already been examined. The DNA report does not connect the petitioner with the offences under Sections 376 of IPC or Section 6 of POCSO Act. The allegations also do not make out case for commission of offence punishable under Sections 343, 363, 366 and 109 of IPC as well.

During the course of arguments, learned counsel for the prosecutrix present

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in the Court even conveyed that she had no objection if the benefit of bail was extended to the petitioner. Keeping in view the period of incarceration of the petitioner, the nature of the allegations as levelled against him, the fact that her own mother has not supported the version of the prosecutrix and even she herself has admitted the prosecutrix of having previous dispute with the petitioner and the attendant facts and circumstances of the case, I am inclined to hold that the petitioner deserves to be released on bail. Hence, 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.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

22.04.2024
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(MANISHA BATRA)
JUDGE

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