

CRM-17601-2024 IN/AND -1- 2024:PHHC:057505  
CRA-S-486-2024 (O&M)  
112 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-17601-2024 IN/AND  
CRA-S-486-2024 (O&M)  
Date of Decision: 26.04.2024

RAMDARSHAN

.....APPELLANT

Vs.  
STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Parvinder Mor, Advocate,  
for the applicant-appellant.

Mr. Amrik Singh Narwal, D.A.G. Haryana.

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**HARPREET KAUR JEEWAN J. (ORAL)**

**CRM-17601-2024**

1. By this application, the applicant-petitioner prays for preponement of the date of hearing fixed in the accompanying appeal from 03.05.2024 to some early date.

2. For the reasons mentioned in the application, which is duly support by an affidavit of the applicant, the same is allowed and the date of hearing fixed in the accompanying appeal is advanced from 03.05.2024 to today itself. The main appeal is taken up on Board for hearing.

**CRA-S-486-2024 (O&M)**

1. The present appeal has been filed by the appellant assailing the order dated 08.12.2023 passed by the learned Additional Sessions Judge, Fast Track Special Court, Faridabad, whereby the bail application filed under Section 438 of the Code of Criminal Procedure, 1973 (for short '*the Code*')

for grant of anticipatory bail to the appellant in FIR No. 248 dated 02.09.2023, under Section 6 of the Protection of Children from Sexual Offences, Act, 2012 (for short '*the POCSO Act*') and Sections 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short '*the Act of 1989*'), registered at Police Station B.P.T.P. Faridabad, has been dismissed.

2. On 02.09.2023, an intimation was received in Police Station BPTP that the prosecutrix 'S' was admitted in V-Care Multi Specificity Health Centre and she was found pregnant of 12 weeks. The investigating officer reached the police station and the mother of the victim 'S' made a statement disclosing that her younger daughter, aged about 14 years old, told her that she developed friendly relationship with the applicant/accused through 'Instagram'. On 27.03.2022 the applicant and the prosecutrix met in a flat where he developed physical relationship with her against her wishes. Thereafter, on the pretext of marriage, the applicant developed physical relations with the prosecutrix on several occasions. After registration of the FIR at the instance of the mother of the victim, she (the victim) was medico-legally examined. From her UPT/USG test, she was found pregnant of 12 weeks. As per copy of her birth certificate Annexure R-1, her date of birth is 03.01.2009.

3. Learned counsel for the appellant *inter alia* contends that the appellant and the victim were having consensual relationship. Both are neighbours. They are still on good terms to each other and they want to solemnize marriage with each other.

4. Mr. Chandan Singh Rana, Legal Aid counsel, accepts notice on behalf of the complainant and has filed his power of attorney in Court today. He submits that he has no objection if the present appeal is allowed and if the appellant is granted benefit of the anticipatory bail under Section 438 of the Code.

5. Learned counsel for the State has opposed the present appeal, on the ground of gravity of allegations referring to the facts and circumstances in the status report filed by way of an affidavit dated 23.02.2024 of Sh. Monica, HPS, Assistant Commissioner of Police, Women Safety, District Faridabad.

6. I have considered the aforesaid contentions and have gone through the paper-book carefully.

7. As per the status report, prosecutrix 'S' has filed a Civil Writ Petition No. 20292-2023 seeking directions for medical termination of her pregnancy and as per the order dated 13.09.2023 (Annexure R-2), the co-ordinate Bench of this Court had directed the Civil Surgeon/CMO of the Civil Hospital, xxxxx to constitute a Board for medical examination of the prosecutrix and to make recommendations as regards the possibility of termination of the pregnancy. As per the status report, the prosecutrix was remained in the hospital on 15.09.2023 to 18.09.2023 as per the medical record (Annexure R-3) and pregnancy was terminated as per medical advise.

8. Keeping in view the facts and circumstances of the case that prosecutrix is minor, however, the power of attorney has been only filed on behalf of the complainant (mother of the prosecutrix), the prosecutrix has undergone all medical Occupational Therapy for medical termination of

pregnancy and her statement under Section 164 Cr.P.C. is also stated to have been recorded; it is not a fit case for exercising jurisdiction under Section 438 Cr.P.C. The allegations against the appellant are under Section 6 of the Act of 2012. The offence is alleged to have been committed by the appellant is serious in nature. In such age a child is to have attention towards her education but the victim has to approach this Court seeking a direction to terminate her pregnancy and has to undergo all these Occupational Therapy. As such, no case is made out to grant the concession of anticipatory bail to the appellant.

9.           Consequently, the present appeal stands dismissed.
10.          It is made clear that nothing observed hereinabove will be taken to be an observation on the actual merits of the case, which would be gone into by the learned trial Court wholly on the basis of evidence led/gathered before it.
11.          Pending miscellaneous application (s), if any, shall also stand disposed of.

April 26, 2024  
nitin

(HARPREET KAUR JEEWAN)  
JUDGE

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| Whether Speaking   | Yes |
| Whether reportable | No  |