

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211

CRM-M-6948-2023 (O&M)
Date of decision: 16.02.2024

KULDEEP

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. Rohit Kapoor, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Mr. Parmender Singh, Advocate
for the complainant.

HARPREET KAUR JEEWAN, J. (ORAL)

CRM-13905-2023

1. The present application has been filed for placing on record the statement of victim dated 01.03.2023 as Annexure P-6.
2. For the reasons mentioned in the application, the same is allowed.
3. Annexure P-6 is taken on record subject to all just exceptions.
4. Office to tag the same at appropriate place.

Main case

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case bearing FIR No.344 dated 04.07.2022 registered under Sections 34, 363, 365, 506 IPC (Sections 328, 376-D, 511 IPC and Section 18 of the POCSO Act, 2012 has been added during investigation) at

Police Station Narnaund, District Hansi.

2. The petitioner is facing trial in the present case, which has been registered at the instance of the father of the prosecutrix with the allegations that the prosecutrix, who is a minor was enticed away by the petitioner, who used to reside in their neighbourhood. It was alleged that the minor prosecutrix was forcibly taken away by the petitioner along with his co-accused Karambir Lohar Chota (Parveen) and after keeping her entire night, she was allowed to go home. Since then, the petitioner is blackmailing the prosecutrix and also threatening to kill her.

3. Statement of the prosecutrix dated 09.02.2024 as well as custody certificate is submitted in Court today, which is taken on record.

4. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case and the petitioner is in custody for the last one year and 7 months. He submits that after the receipt of the complaint (Annexure P-2) upon which the FIR was registered, a counseling report (Annexure P-3) was prepared, wherein the prosecutrix made material changes while giving information to the counselor in the presence of legal aid counsel. The prosecutrix had also stated that no wrong act was done by the petitioner and she also refused for her medical examination. He further contends that on 03.07.2022 i.e. the alleged date of occurrence, the petitioner had gone to attend an interview as per attendance record obtained from Food Corporation of India RO/Haryana, Panchkula (Annexure P-4). The statement of the prosecutrix has duly been recorded during the trial and even the cross examination has been completed on 09.02.2024. The victim has not alleged any sexual abuse even when she appeared as a witness during the trial. He further submits that the trial is going

to take time to conclude, as such, prayer for releasing the petitioner on bail has been made.

5. On the other hand, learned State counsel opposes the bail on the ground of gravity of allegations levelled against the petitioner. He contends that initially the FIR was registered under Sections 363, 365, 506 read with Section 34 IPC. On 04.07.2022, the statement of the victim was recorded in the presence of a legal aid counsel where she disclosed that the petitioner-Kuldeep had handed over sleeping pills and asked her to give the said medicines to her family members when her father would be out of house. The prosecutrix gave the said medicine to her family members and thereafter she received a message from the petitioner who asked her to open the door and when she opened the door the petitioner made her to smell something and she became unconscious. Thereafter, she was taken away and when she regained consciousness, she found herself at Jind Bus stand. She found that the petitioner-Kuldeep and another person named Parveen were standing there. She raised an alarm and then the petitioner and Parveen left the spot. He further contends that on 05.07.2022, the statement of the prosecutrix under Section 164 Cr.P.C. was also recorded wherein she had disclosed that the petitioner had tried to rape her and also threatened to kill her. On the basis of said statement, Sections 328, 376D, 511 IPC and Section 18 of the POCSO Act, 2012 was added. Final report under Section 173(2) Cr.P.C. has been filed in the Court. Co-accused-Parveen was found innocent and supplementary final report under Section 173(8) Cr.P.C. was filed to this effect. As per birth certificate (Annexure R-1), the date of birth of the prosecutrix is 09.02.2005 and as per report dated 11.11.2022 by Regional Forensic Science Laboratory, Hissar (Annexure R-2), Prazepam was detected in the said report.

6. I have considered the aforesaid contentions. No doubt the allegations against the petitioner are serious in nature but the statement of the prosecutrix has already been recorded. The victim has refused for her medical examination. The petitioner is in custody for the last about 1 year and 7 months.
7. Investigation is complete and the final report under Section 173 of the Code of Criminal Procedure has been presented before the trial Court; Only one witness has been examined so far; the trial will take some time to conclude; and there is no apprehension of absconding the petitioner during the trial.
8. Without commenting on the merits of the case and keeping in view the above facts, the present petition is allowed.
9. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds/surety to the satisfaction of the trial Court/CJM, concerned.
10. All pending miscellaneous application(s), if any, stands disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

16.02.2024
P.Bhatt

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