

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CRM-M No.6147 of 2024  
Date of Decision: 22.04.2024

Karan Verma ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vishal Goel, Advocate,  
for the petitioner.  
  
Mr. Satjot Singh, AAG, Punjab.  
for the respondent-State.

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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                                                                                                                                                               |
|---------|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 241     | Ciiy Rupnagar, District Rupnagar | 376-D, 370 and 370-A of IPC and 6 and 17 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”) (Section 10 of POCSO Act was added later on) |

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on 19.12.2022 on the basis of statement recorded by the prosecutrix "A" (name withheld) who was a 13 years old girl at that time alleging therein that her parents had been divorced in the year 2016. Previously, she had been living with her biological mother but from the last 8-9 months, she had started living with his father and his second wife i.e. the co-accused

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Bholi and the daughter of the latter i.e. co-accused Sapna. On 16.11.2022, the co-accused Bholi and Sapna took her to a park on the pretext of having a walk. She was made to consume some cold drink which was laced with some intoxicating substance and on consuming which, she did not remain in her normal senses. She was, thereafter, made to board a car by the co-accused Bholi and Sapna and was taken towards some huts wherein she was ravished by the two persons namely, Karan and Harsh in the presence of co-accused Bholi and Sapna. Thereafter also, the abovesaid two persons had ravished her twice. She alleged that the co-accused Bholi and Sapna had been taking money from the abovesaid Karan and Harsh in lieu of her sexual exploitation. On 16.12.2022 also, she was forced again by the co-accused Bholi and Sapna to have sexual relations with the same persons and then she was constrained to disclose about all the facts to her real mother and father. After registration of FIR, investigation was commenced. The prosecutrix was medically examined. Her statement under Section 164 of Cr.P.C. was also recorded. The present petitioner was arrested on 11.01.2023. The co-accused Bholi and Sapna were arrested on 03.01.2023. Another accused Harsh Kumar could not be arrested. After completion of usual formalities of investigation, challan against the present petitioner and co-accused Bholi and Sapna was presented in the Court and presently, they are facing trial for commission of aforementioned offences.

3. It is submitted in the petition and learned counsel for the petitioner has argued that he has been falsely implicated in this case. Though as per the allegations in the FIR, two persons namely, Harsh and Karan had repeatedly ravished the minor prosecutrix as per the abetment made by her step mother and step sister i.e. co-accused Bholi and Sapna but he has not

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been identified by the prosecutrix as the same person named as Karan who had allegedly committed rape upon her. No test identification parade of the petitioner was got conducted from the prosecutrix. She had seen him for the first time in the Court and did not identify him as that person at the time of recording her sworn statement before the Court. He is in custody since 11.01.2023. No useful purpose would be served by keeping him in custody any more. Therefore, it is argued that he deserves to be extended benefit of bail.

4. Status report has been filed by the respondent-State submitting that since there are serious allegations against the petitioner of repeatedly committing rape/aggravated penetrative sexual assault upon the minor prosecutrix and, therefore, he does not deserve concession of bail. Learned State counsel has also argued on the same point.

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. As per the allegations, on the abetment made by the co-accused Bholi and Sapna, step mother and step sister respectively of the prosecutrix on their facilitation, the prosecutrix was subjected to gang rape/aggravated penetrative sexual assault by the present petitioner and one Harsh three times during the period from 16.11.2022 till 19.12.2022 i.e. the date when the FIR was lodged. Annexure P-2 is copy of statement of the prosecutrix as recorded before learned trial Court which shows that though she has implicated the co-accused Sapna and Bholi in commission of the offences of getting her sexually exploited by way of immoral trafficking and even facilitating her gang rape by two persons several times but she did not

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implicate the petitioner in commission of the crime of committing rape/aggravated penetrative sexual assault. Rather when the present petitioner was shown to her in the Court, she stated that he was not the same Karan who had committed wrong acts with her and that the said Karan who was her ravisher was not present in the Court. The test identification parade of the petitioner had not been conducted by the complainant during the course of investigation and there is nothing on record to show that he was even otherwise got identified by the prosecutrix before the date of recording her statement in the Court. Since the star witness of the case has not supported the version of the prosecution with regard to the involvement of the petitioner in the commission of offences as alleged in the FIR, therefore, keeping in view the nature of the testimony of this witness, the period which the petitioner has spent in custody coupled with the fact that further detention of the petitioner will not serve any useful purpose, I am of the considered opinion that the petitioner deserves to be given concession of 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 |