

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

280

CRM-M No.6650 of 2024
Date of Decision: 14.02.2024

Darshan Ram ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ramandeep, Advocate,
for the petitioner.

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

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.	Dated	Police Station	
202	30.07.2023	Patran, District Patiala	376 (2) (F) and 354A of IPC and 4 and 12 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”)

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of statement recorded by the complainant “B” (name withheld) alleging therein that she was 17 years old and was studying in 10+2 class. Her father had died in the year 2017 and her mother was working as a labourer. She alleged that the petitioner used to visit their house from the past two years and she used to address him as uncle. Many times, he used to pick her up from the school and drop her at her house and she trusted

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him. On 24.07.2023, when after attending the school, she was coming out of the same, she saw the petitioner waiting outside with a white colour Verna car. The petitioner told her that he would take her along with him to meet his sister at village Bareta. On his asking, she boarded in the car of the petitioner who took her towards Village Patran. On the way, he offered her some cold drink and after consuming the same, she started feeling dizziness. She alleged that the petitioner then took her to a hotel and committed rape upon her after forcibly removing her clothing and because of her condition, she was not in a position to resist. After ravishing her, he himself helped her wear her clothing again and then they came outside the hotel. He took her towards Patran in his car and called some person namely, Amrik who made her sit in his Swift car. The said Amrik Singh also molested her by forcibly kissing on her cheek and left her at Bhagat Singh Chowk at Patran. He had allowed her to make a call to her mother through his phone. The mother and brother of the complainant had come at Patran and took her to their house.

3. As per the further allegations, she did not narrate the incident to her family members as she was not feeling well and had mustered the courage to disclose everything to her mother now. After registration of case, investigation proceedings were initiated. The victim was medically examined. The petitioner was arrested. The co-accused Amrik Singh was extended benefit of anticipatory bail. After completion of necessary investigation proceedings and usual formalities, challan was presented in the Court. Presently, the petitioner is facing trial for commission of aforementioned offences. He had moved an application for grant of bail before learned trial Court which was dismissed vide order dated 25.01.2024.

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4. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case due to political rivalry. There is delay of six days in lodging of the FIR which has not at all explained. The victim and her mother who were the most material witnesses in this case have not supported the prosecution version. Even a Special Investigating Team was constituted to ascertain the truth about the incident as alleged by the victim and she herself and her mother had sworn affidavits qua lodging a false case against him due to influence of some person. No human semen has been detected on the clothing of the victim as per the FSL report. He is in custody for a period of more than six months. His further detention would not serve any useful purpose. Therefore, it is argued that he deserves to be given benefit of bail.

5. Per contra, learned State counsel has argued that there are serious allegations against the petitioner and, therefore, he does not deserve to be given concession of bail.

6. I have heard learned counsel for the petitioner as well as learned State counsel and have perused the material placed on record carefully.

7. The petitioner is alleged to have subjected the minor to penetrative aggravated sexual assault as on 24.07.2023 by making her sit in his Verna car and after taking her towards Village Patran. The statements of the victim and her mother have since been recorded before the trial Court and copies of the same have been placed on record as Annexures P-2 and P-3 respectively. A perusal of sworn testimony of PW-1 i.e. victim reveals that she did not implicate the petitioner at all in commission of the subject crime and rather stated that he had not done any wrong act with her. She is also

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shown to have declared hostile on request of learned Public Prosecutor and even while being subjected to pertinent questions of cross-examination by him, she has not relented and denied that the petitioner had ravished her. Similarly, her mother PW-2 has totally resiled from the prosecution version. The petitioner has also placed on record report received from FSL as per which, no semen was detected on the vaginal swabs, smear, slides and pubic hair of the victim and no male DNA was recovered to ascertain the contribution of the petitioner. Keeping in view the nature of the evidence which has come on record, the period of incarceration of the petitioner, the fact that the trial is likely to take time and all the attendant facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that no useful purpose would be served by keeping the petitioner in custody any more. 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/Illaqa Magistrate.

14.02.2024
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(MANISHA BATRA)
JUDGE

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