

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-7486-2024 (O&M)
Date of decision: 21.03.2024

Ajay ...Petitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. K. L. Saini, Advocate
for the petitioner.

Ms. Nidhi Gupta, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case bearing FIR No. 389 dated 25.08.2023, registered under Sections 328, 342, 376-D, 506 and 511 of IPC and Section 6 of the POCSO Act, 2012 at Police Station Sadar Jind, District Jind.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint filed by complainant 'K' (*name withheld*) on 25.08.2023 alleging therein that her minor daughter 'T' (*name withheld*) disclosed to her that on 25.01.2022, accused Ankit had called her to her house on the pretext of celebrating her birthday and by administering some stupefying substance to her, he committed rape upon her, had taken her obscene photographs and had also prepared video of the said act. She also informed that he had been blackmailing her on the pretext of making those photographs and videos viral and had been sexually exploiting her on that pretext again and again. She also

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alleged that accused Ankit had also been pressurizing her to have conversation with co-accused Deepak @ Monty by extending threats to her. With regard to the present petitioner, she alleged that he used to give some intoxicant drugs to her, used to pressurize to go to them by giving those drugs to her family members and otherwise to face the consequences. After registration of the FIR, investigation proceedings were initiated. The victim was medically examined. Her statement under Section 164 Cr.P.C. was also recorded. The petitioner along with the co-accused were arrested. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P.C. was presented and presently the petitioner along with co-accused is facing trial for the commission of aforementioned offences. He had moved an application for grant of regular bail before the trial Court but the same had been dismissed, vide order dated 06.01.2024.

3. It has been argued by learned counsel for the petitioner that he has been falsely implicated in this case. The victim and her mother had been examined before the trial Court and they have not supported the prosecution version at all. There is no incriminating evidence against him. His further detention would not serve any useful purpose. It is, therefore, argued that the petitioner deserves to be given benefit of regular bail.

4. Learned State counsel has resisted the petition by arguing that there are serious allegations against the petitioner. The petitioner had played an active role in commission of act of rape by the co-accused. The forensic report is still awaited. The trial is at the fag end. Therefore, he has argued that the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have also perused the material placed on record.

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6. Learned counsel for the petitioner has placed on record Annexure P-1, which is copy of sworn deposition of the complainant/mother of the victim, as well as Annexure P-2, which is copy of sworn deposition of the victim herself. A perusal of their testimonies reveals that they have not supported the prosecution version when they stepped into the witness box. Rather, they have taken a U turn and have deposed that the present petitioner and co-accused did not di any wrong act with her. It is even revealed that both of them have been declared hostile on the request of learned public prosecutor and were allowed to be cross examined by him but they have taken the same stand. Keeping in view the nature of evidence, which has come on record in the form of sworn depositions of the victim as well as her mother, the period of custody spent by the petitioner and attendant facts and circumstances of the case, I am of the considered opinion that the petitioner deserves to be extended benefit of regular bail.

7. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

8. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

21.03.2024

Waseem Ansari

(MANISHA BATRA)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No