



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

306

CRM-M No.12864 of 2024
Date of Decision: 08.05.2024

Ajay ... Petitioner

Versus

State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. S.S. Dinarpur, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

None for respondent No.2.

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
97	City Pehowa, District Kurukshetra	363, 366-A, 376 (2) (n) and 201 of IPC and 6 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”)

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was initially registered under Sections 363 and 366-A of IPC on 28.04.2023 on the basis of statement recorded by the complainant “R” (name withheld) alleging therein that the victim (name withheld) who is his 17 years’ old

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daughter was found missing from their house in the morning of 26.04.2023. He had been making search for her but could not trace her. He raised suspicion that she had been enticed away by one Pragat Singh s/o Baljita, r/o Village Bhatt Majra. After registration of FIR, investigation proceedings were initiated. The victim was recovered on 28.05.2023. Her statement under Section 164 of Cr.P.C. was recorded. Her medical examination was conducted and she was found to be pregnant. Offence under Section 6 of POCSO Act was added. Subsequently, it was disclosed by her that she had been enticed away by the present petitioner who had taken her to different places and had ravished her. The petitioner was arrested on 28.05.2023. His medical examination was also conducted. After completion of investigation, challan was presented against the petitioner and presently, he 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 12.10.2023.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. There is delay of two days in reporting the matter to the police. Infact, there is no material on record to connect the petitioner with the subject offences. In her statement recorded under Section 164 of Cr.P.C., she had not implicated the petitioner in the commission of the subject offences. She had materially improved her version subsequently and had falsely implicated the petitioner. Evidence with regard to her age is contradictory and she was not proved to be minor. The material witnesses including the victim have already been examined. There are no chances of

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petitioner's intimidating the material witnesses. He has permanent abode and, therefore, there are no chances of his absconding also. He has clean antecedents. His further detention would not serve any useful purpose. Therefore, it is argued that he deserves to be given concession of bail. To fortify his argument, he has relied upon the order dated 18.02.2015 passed by the High Court of Gujarat at Ahmedabad in Criminal Misc. Application (for Regular Bail) No.3225 of 2015 titled as *Sunil @ Sonu Surendrabhai Verma v. State of Gujarat*, wherein, regular bail was granted to an accused booked for commission of similar offences.

4. Respondent No.2 was duly served but did not appear.

5. Per contra, it has been argued by learned State counsel that there are serious and specific allegations against the petitioner. In her sworn deposition, the victim has given details of the manner in which she has been enticed away by the present petitioner and had been taken to Matlauda, Panipat wherein she was kept confined for one month and about her recovery from the custody of the petitioner, when he was taking her to Gujarat and stayed at some hotel at Ambala. It is argued that the petitioner had even impregnated the victim and her pregnancy was got aborted. FSL report is awaited. It is, therefore, argued that the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the material placed on record.

7. As per the allegations, the petitioner had enticed away the

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victim who was minor as on 26.04.2023 and had taken her to a rented room at Matlauda, Panipat wherein she was kept confined and had been repeatedly ravished. It is revealed from the record that in her statement as recorded under Section 164 of Cr.P.C., she had stated that she had left her house at her own will as she used to be beaten up by her family members and did not want to take action. Rather after her recovery, she had stayed for sometime at Udyyan Kendra, Kurukshetra and her custody was handed over to her parents only on 17.07.2023. However, in her sworn deposition, she has fully supported the prosecution version and is shown to have stated that the statement under Section 164 of Cr.P.C. was recorded by her under the pressure of the accused. The statement of the victim shows that she was in contact with the petitioner through Facebook from the last two years and he had enticed her away and induced her to go with him and then she was ravished. Even if it is assumed for the sake of arguments that she had voluntarily left her house with the petitioner, still being minor, her consent for the purpose of maintaining physical relationship with the petitioner cannot be stated to be material. Though, the victim is shown to have made some improvements in her initial version, but this Court while considering the plea of petitioner for grant of bail is not required to assess the question as to veracity of her testimony as it is for the trial Court to do the same.

8. In view of the discussion as made above but without meaning to make any comment on the merits of the case, I am inclined to hold that keeping in view the serious nature of the allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail and the

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attendant facts and circumstances, he does not deserve to be extended benefit of bail. Accordingly, the petition is dismissed.

08.05.2024
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(MANISHA BATRA)
JUDGE

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