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IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

CRM-M-14299-2023

Date of decision: 14th March, 2024

Jagdeep Singh @ Jaggi

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sahil Puri, Advocate for the petitioner.
Mr. P.S. Bhandari, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

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
128	City Kapurthala, District Kapurthala	363, 366-A and 376 of Indian Penal Code, 1860 (for short ‘IPC’) and Section 4 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 this petition are that the aforementioned FIR was registered on 14.05.2021 on the basis of statement recorded by complainant ‘K’ (name withheld) on 14.05.2021 alleging therein that her husband was working in Dubai and it was after a gap of many years that he used to visit them. She had been residing alongwith her children. In the afternoon of 12.05.2021, she alongwith victim i.e. her daughter ‘R’ (name withheld) aged about fifteen years, her mother who had come to visit them and another daughter had slept and when they woke up, they found the victim to be missing. She alleged

that she was sure that her minor daughter had been enticed away by the petitioner who was living in neighborhood as he was already keeping an evil eye upon her daughter and despite the fact that he had been reprimanded by the respectables of the vicinity several times to stay away from her daughter, he was not mending his behaviour. She even alleged that the sister and brother-in-law of the petitioner had a hand in the kidnapping of her daughter. Investigation proceedings were initiated, after registration of the FIR under Sections 363 and 366-A of IPC. The victim was recovered on 19.05.2021. Her statements under Sections 161 and 164 of Cr.P.C. were recorded. Offences under Section 376 of IPC and under Section 4 of POCSO Act were also added. The petitioner was arrested on 06.11.2021. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner is facing trial for the commission of the aforementioned offences. He had moved an application for grant of regular bail before the learned trial Court which was dismissed vide order dated 23.12.2022.

3. 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. He is in custody since 06.11.2024. His custodial interrogation is no more required. The trial is likely to take time. Infact, the victim had gone with the petitioner on her own accord after having a quarrel with her mother and had stayed with him and this fact was disclosed by her, in her statements recorded under Sections 161 and 164 of Cr.P.C. Initially, she did not even get her medico legal examination conducted. There is delay of two days in

lodging of FIR and twelve days in getting her medical examination conducted which was subsequently conducted on 19.05.2021. The victim being above the age of sixteen years was sufficiently mature and knew the consequences of her act and it was she who had voluntarily gone with the petitioner and it was not a case of his forcibly taking her away along with him. The petitioner himself is a youth only of twenty-two years of age and is languishing in jail for a period of over one year. Infact, there is no medical evidence on record to find that the petitioner had ravished the victim. The trial is likely to take time. No useful purpose would be served by keeping him in custody. Therefore, it is argued that he deserves to be given concession of bail.

4. Status report has been filed by respondent-State. It is submitted by learned State counsel that the victim has been examined on oath before the learned trial Court and has categorically stated that she had been taken away by the petitioner on 12.05.2021 who came to her house and then took her to different places. He had been blackmailing her by demanding cash and gold ornaments and otherwise threatening her to do harm to her mother and herself as her father was living abroad. She has also recorded that the petitioner had made physical relations with her forcibly by making her consume some drink and had also prepared her objectionable videos. She had also disclosed that it was under the pressure of the petitioner that she had refused to get her medical examination conducted and had made statement in his favour under Sections 161 and 164 of Cr.P.C. It is urged by learned State counsel that the severity of the act as committed by the

petitioner stands established from the sworn deposition made by the prosecutrix. There are chances of his fleeing from justice, if extended benefit of bail and therefore, it is argued that the petition does not deserve to be allowed.

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. Admittedly, the victim was a minor girl of about fifteen years of age as on 12.05.2021 when she had gone missing from her house. On her recovery on 19.05.2021, she had recorded statements under Sections 161 and 164 of Cr.P.C. to the effect that after having a quarrel with her mother, she had made call to the petitioner and then they had gone to different places and had stayed there and that subsequently, he was apprehended by the police. She did not say anything else as against the petitioner. She had initially refused her medico legal examination and was subsequently examined on 25.05.2021 i.e. after a gap of twelve days. The chemical examiner report is still pending. The doctor who had conducted medico legal examination of the victim kept her opinion as to evidence of the victim being subjected to rape pending till receipt of the chemical examination report. In her sworn deposition, the prosecutrix has levelled specific allegations of her having been enticed away/induced by the petitioner to go alongwith him with an intent to have illicit inter-course with her and qua her being ravished by him against her will. There are serious allegations against the petitioner. Though a plea has been taken indirectly in the petition that it was a case of consent

on the part of the minor prosecutrix and both of them were involved with each other, though, during the course of arguments, learned counsel for the petitioner has not addressed any direct argument on this point. However, even while assuming that the prosecutrix had voluntarily gone with the petitioner, it cannot be stated that the subject offences are not made out as against the petitioner since the prosecutrix is admittedly a minor and consent of minor is immaterial. Moreso, being a minor her consent in indulging into physical relationship with the petitioner even if assumed, does not help the petitioner because of the victim being minor at that time. Keeping in view, the nature of the allegations, which have been levelled against the petitioner, the fact that it will be only after evaluation and thorough assessment of the evidence to be produced on record that the trial Court can finally decide that the allegations as levelled against the petitioner were established or not, the quantum of sentence which the conviction may entail and the surrounding facts and circumstances of the case, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the present petition is dismissed.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]

JUDGE

14th March, 2024

Parveen Sharma

1. Whether speaking/ reasoned
2. Whether reportable

:

Yes / No
Yes / No