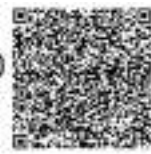


2024:PHHC:063690



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

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CRM-M-19789-2024 (O&M)
Date of decision: 08.05.2024

Gurjeet Singh @ Jeetu @ Geetu ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Anju Arora, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 19 dated 20.04.2022, registered under Sections 366-A, 354-D, 376(2)(n), 450, 506 of IPC and Sections 6 and 12 of the POCSO Act, 2012 at Police Station Women Police Station Sirsa.
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 the statement recorded by the prosecutrix 'A' (*name withheld*) alleging therein that she was pursuing her Class 10th studies from open school. The petitioner

was regular visitor to their house as her mother treated him as her brother. She alleged that one day after the *Holi* festival, she was alone in her house, when the petitioner came and took her out in a black car on the pretext of some work. She was offered a cold drink while on the way and on consuming the same, she lost her awareness and in that condition, the petitioner ravished her twice and thereafter, while leaving her back home, he had extended threats to kill her mother and herself, if she disclosed about the incident to her. She alleged that she had missed her periods for the next month and on suspicion, her mother got her pregnancy test conducted at home and she was found to be pregnant and then she had disclosed the entire incident to her mother. After registration of the FIR, investigation proceedings were initiated. The victim recorded a supplementary statement subsequently, wherein she alleged that she was taken to Cabin No. 5 of Tea Town Café by the petitioner on his splendor motorcycle and rape was committed upon her there. Her statement under Section 164 of Cr.P.C. was got recorded. She was medically examined and was found to be pregnant. The pregnancy was got terminated as per the procedure, prescribed by law. The petitioner was arrested on 06.05.2022. He was also medically examined. After completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was present in the Court and presently, the petitioner is facing trial for commission of aforesaid mentioned offences. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 07.11.2022.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. The victim as well as her mother have taken different

stands during the course of investigation and at the time of trial. In their respective sworn depositions, they have not supported the prosecution version at all. He is in custody for over a period of 02 years. No useful purpose would be served by keeping him in custody anymore. The trial is likely to take time. There are no chances of his intimidating the witnesses as the material witnesses already stand examined. Therefore, it is urged that the present petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that there are serious allegations against the petitioner, therefore, he does not deserve to be extended benefit of bail.

5. I have heard learned counsel for the parties at considerable and have also gone through the record carefully.

6. As per the allegations, the victim got lodged the FIR of this case on the allegations that on the next day of Holi festival, the petitioner had taken her in a black car out of her house and made her consume something, on which, she had lost her awareness and then he had ravished her twice. In her statement recorded under Section 164 of Cr.P.C., she also stated so. Her supplementary statement was recorded on 24.04.2022, wherein she changed her version a bit by saying that in fact she was taken by the petitioner on a motorcycle to a café and was ravished. The petitioner has placed on record Annexure P-6 and Annexure P-7, which are copies of the statements of the victim and her mother respectively as recorded before the trial Court. On a perusal of these statements, it is revealed that both of them have given a total go bye to the allegations as levelled in the FIR by submitting that the same was registered under the pressure of the father of the victim and that the victim was in love with the petitioner and wanted to solemnize marriage with

him. They stated that she was major at that time and physical relations were developed by her with the petitioner with her consent and no rape was ever committed upon her. Though it is shown to be admitted by the victim that she had pregnant and the pregnancy was got terminated after lodging of FIR, however, the victim herself as well her mother have insisted that the date of birth of the victim was 24.12.2002. Meaning thereby that on the date of occurrence, the victim was above the age of 18 years. Keeping in view the nature of evidence which has come on record, the period of incarceration of the petitioner, the fact that the material witnesses already stand examined and, therefore, there is no question of the petitioner’s intimidating the witnesses and further keeping in view the fact that there is no basis for the contention that he would flee from the course of justice, I am of the considered opinion that it is a fit case for exercising jurisdiction by this Court for granting bail to the petitioner.

7. Accordingly, the present petition is allowed and 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 any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

08.05.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>