

CRM-M-16308-2024 -1-

228 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-16308-2024
Date of decision: 9th April, 2024

Vikas ...Petitioner(s)
Versus
State of Haryana ...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ram Pal Verma, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

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.	Date	Police Station	Sections
396	28.07.2023	Kharkhoda, District Sonipat	323, 341, 354, 354A, 354-B, 354-D and 506 read with Section 34 of Indian Penal Code, 1860 (for short 'IPC')

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 written complaint filed by the complainant 'S' (name withheld) alleging therein that her younger daughter 'V' (name withheld) who was 15 years old and used to study in a school of nearby village was sexually harassed and hurled abuses by the accused Sagar who is a co-villager and her daughter had apprised about this fact to her previously. She alleged that on 25.07.2023 her daughter told her that on her way to home from school, Sagar alongwith

Jaibir and Amit had again harassed her on the same day and had also hurled abuses to her and when she resisted, they had physically assaulted her. She alleged that she disclosed about the incident to her husband and when her husband was going to a shop in the village, the above-named Amit along with three more persons namely Balu, Bheem, Anup and Vinod had physically assaulted him by giving kicks and fist blows. He had somehow saved himself. They had also extended threat to kill himself and his family. She further alleged that her daughter also told her that the present petitioner had also been harassing her and was sending her edited photographs in her Whatsapp's school group and used to make objectionable posts on Instagram. After registration of FIR, investigation proceeding were initiated. The present petitioner was arrested on 13.08.2023. The co-accused Sagar was declared a juvenile in conflict with law and his case was sent to Juvenile Justice Board. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner is facing trial for aforementioned offences. He had moved three bail applications before the learned trial Court, one of which had been dismissed as withdrawn whereas the two have been dismissed on merits.

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. In her statement recorded under Section 164 of Cr.P.C., the victim had not taken his name. Further, neither the victim nor the complainant i.e. her mother or other members of her family have supported the version of the prosecution in their statements recorded in the Court. He is

in custody since 13.08.2023. The Juvenile in conflict with law Sagar has also been extended benefit of bail. No useful purpose would be served by keeping him in custody anymore. Therefore, it is argued that the petitioner deserves to be given concession of bail.

4. *Per contra*, learned State counsel has argued that there are serious and specific allegations against the petitioner and therefore, it is urged 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. The petitioner has placed on record copy of statement recorded by the victim as on 01.08.2023 under Section 164 Cr.P.C. which reveals that she had not named the present petitioner as one of the persons who had harassed her sexually or physically or had criminally intimidated her. Annexure P-2 is copy of a sworn deposition of the victim and Annexures P-3 to P-5 are copies of statements recorded by her mother, sister and father respectively, before the learned trial Court as on 09.02.2024. On a perusal of the same, it is revealed that neither of these four witnesses have implicated the present petitioner in the commission of the offences for which he is facing trial. The victim did not even identify him and not even an iota of incriminating evidence has come on record by recording the statements of all these witnesses. Keeping in view the nature of the evidence that has come on record before the learned trial Court, the period spent by the petitioner in custody and the attendant facts and circumstances of the case, but without

meaning to make any comment on the merits thereof, I am of the considered opinion that the petition deserves to be allowed. Hence, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

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 allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

9th April, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes
2. Whether reportable

:

Yes