

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.17175 of 2024
Date of Decision: 24.04.2024

Sukhwinder Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sanjiv Kumar Yadav, Advocate,
for the petitioner.

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

Ms. Pallavi Babbar, Legal Aid Counsel,
for the complainant.

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.	Dated	Police Station	Sections
0278	04.05.2023	Shahabad, District Kurukshetra	323, 354, 354A, 328, 34, 342 and 506 of IPC (376 read with Section 511 of IPC added later on and 328 of IPC was deleted)

2. This is the second petition for grant of regular bail as filed by the petitioner in the aforementioned FIR as his previous petition bearing No.CRM-M-43835 of 2023 was dismissed by this Court on 02.12.2023.

3. Short of unnecessary details, the facts of the case are that the victim "H" (name withheld) had lodged the abovementioned FIR on the allegations that the petitioner had been sexually harassing her and pressurizing her to maintain physical relations with her. He had instigated her own family members against her. On 18.03.2023 on instigation, her

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own family members had kept her confined in a room of her house for four days after physically assaulting her and due to his act and conduct, she was on the verge of committing suicide. Offences under Sections 376 read with Section 511 of IPC were added during the course of investigation. He was arrested on 10.06.2023 and is presently facing trial.

4. It is argued by learned counsel for the petitioner that at the time of dismissal of the first petition for grant of regular bail as filed by him before this Court, the statement of the victim had not been recorded completely which has been recorded now. A material witness Gurpreet Singh has not supported the prosecution version. A period of more than four and half months has been passed since the dismissal of the previous petition. It is submitted that in view of all these changes in the circumstances of the case, coupled with the fact that the testimony of the victim has not been supported by any other evidence and further in view of the fact that there are vague allegations against him with regard to commission of offences of outraging the modesty of the victim, criminally intimidating her or making attempt to commit rape upon her without giving specific dates when the petitioner had committed the subject offences, it is argued that the petition deserves to be extended benefit of bail.

5. Vakalatnama on behalf of the complainant has been filed and the same is taken on record.

6. Learned counsel for the complainant as well as learned State counsel, on the other hand, have argued that there are serious and specific allegations as against the petitioner. The complainant/victim in her sworn deposition has fully supported the prosecution case by giving the details of the specific acts committed by the petitioner and as no change in the

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circumstances can be stated to have occurred from the date when the previous petition for grant of bail of the petitioner had been dismissed, therefore, this petition is not maintainable.

7. I have heard learned counsel for the petitioner and learned counsel for the complainant and learned State counsel at considerable length and have gone through the record.

8. Annexure P-16 is copy of order dated 02.12.2023 passed by this Court in CRM-M-43835-2023 wherein the petition filed by the petitioner for grant of regular bail had been dismissed. At that stage, the sworn deposition of the victim was recorded partly and her cross-examination was yet to be conducted. The copy of statement of the victim has been produced by the petitioner on record as Annexure P-17 which shows that her cross-examination had been completed on 09.01.2024. In the FIR, the victim had not levelled any allegation of making attempt by the petitioner to commit rape upon her though allegations that he used to pressurize her to have physical relationship with him and used to do obscene acts, had been levelled. No specific date, month and year when the alleged acts had been committed by the petitioner has been mentioned in the FIR. The incident of making attempt to commit rape by the petitioner upon her as on 23.12.2021 as deposed to by the victim in her sworn testimony, had never been reported to the police. The witness Gurpreet Singh who as per the victim used to come to her and rescued her when she had been confined by her own family members on the instigation of the petitioner has not supported her version while appearing as a witness. The petitioner is in custody since 10.06.2023. There are no chances of his intimidating the victim as she has already been examined. Though this is the second petition for grant of regular bail but it

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can be stated that the circumstances have been changed from the date of dismissal of the first petition as now the victim as well as PW-Gurpreet Singh have been examined and also that there is no apprehension of petitioner's intimidating the victim. The trial is likely to take time. In view of the above discussed facts, in my considered opinion, further detention of the petitioner in custody would not serve any useful purpose. Therefore, 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 Illaqa Magistrate/trial Court and further subject to the condition that he will not make any attempt to meet the victim or any other witness of the case or influence other material witnesses or to tamper with the prosecution evidence and further he will not visit the locality wherein the victim resides during trial of the case.

9. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

24.04.2024
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(MANISHA BATRA)
JUDGE

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