

CRM-M-17353-2024 (O&M) 1

109 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17353-2024 (O&M)
Date of Decision: 15.07.2024

MURAD ALI ALIAS MASU

.....PETITIONER

Vs.

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Mr. Satnam Singh, Advocate,
for the petitioner.

Mr. Amrik Singh Narwal, D.A.G. Haryana.

Mr. Arun Chander Sharma, Advocate,
for the complainant.

HARPREET KAUR JEEWAN J. (ORAL)

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No. 165, dated 18.08.2022, under Sections 323, 342, 365, 376 (2) (N) of the IPC (Sections 363 and 366 thereof were deleted later on), Section 6 of the Protection of Children from Sexual Offences, Act, 2012 (for short '*the POCSO Act*') and Sections 9 & 10 of the Children Marriage Prohibition Act, 2006, registered at Police Station Sadar, District Panipat.

2. Learned counsel for the petitioner contends that the petitioner is in custody w.e.f. 25.12.2022. The petitioner is the husband of the victim. A copy of the '*Nikahnama*' has been annexed as Annexure P-2 with the petition. Both, the petitioner and the prosecutrix had filed a petition bearing No. CRWP-8144-2022 before this Court, seeking protection of their life and

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liberty and the same was allowed by this Court, vide order dated 26.08.2022 (Annexure P-4). The statement of the prosecutrix recorded under Section 164 Cr.P.C. on 26.12.2022 was under the pressure of her parents. The petitioner has been falsely implicated in the present case.

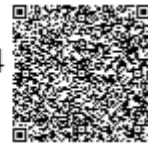
4. A status report, dated 10.07.2024 by way of an affidavit of Rajbir Singh, Deputy Superintendent of Police, City, Panipat, along with copy of the MLR of the prosecutrix, copy of the statement recorded under Section 164 Cr.P.C., disclosure statement of the petitioner and a copy of the school leaving certificate, has been filed in Court today by learned State counsel. The same is taken on record.

4.1 Learned State counsel opposes the bail on the ground that the allegations levelled against the petitioner are serious in nature. He submits that the victim was missing on 17.08.2022 and thereafter, recovered on 25.12.2022, i.e. about 04 months later. The State counsel further contends that though the '*challan*' has been presented and the charges have been framed by the learned trial Court, but out of total 26 witnesses, only the examination-in-chief of the prosecutrix has been recorded. Material witnesses are yet to be examined by the trial Court.

5. Learned counsel for the complainant also reiterates the contentions raised by learned State counsel and prays for dismissal of the present petition.

6. I have heard learned counsel for the parties and have gone through the paper-book carefully.

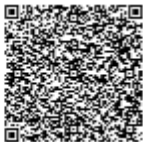
7. As per the school leaving certificate (Annexure P-4), the date of birth of the prosecutrix is 07.11.2006. The said certificate was issued much

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prior to the occurrence on 27.04.2016. On the basis of the said certificate, the age of the prosecutrix was 15 years, 09 months and 10 days on the day of the alleged occurrence. The petitioner did not place on record any document reflecting the contradiction in the date of birth recorded in the said school certificate. The statement of the prosecutrix was recorded under Section 164 Cr.P.C. (Annexure R-2) which reads as under:-

“Murad Ali had taken me away forcefully. He was accompanied by 4-5 other persons. I had gone to take water. I was taken by them forcefully. They put something on their hands and then put it on my mouth. I was fainted at that time. Whenever, I used to ask about coming home, they used to beat me. They forcefully get me married. I want to go to my maternal grand-father and my mother.”

8. As per the Medico-legal Report conducted on 25.12.2022, the prosecution has alleged history of assault by the petitioner. As per the status report filed on behalf of the State, on 25.12.2022, the victim was recovered with the petitioner from one hut situated at Village Sherpur Belha, Police Station Khanpur, District Haridwar (Uttarakhand). The pregnancy test was found to be positive. The investigation conducted reveals that the minor victim who was about 15 years and 09 months, was pregnant and there are allegations of kidnapping the minor victim, the recovery of the victim is from the petitioner and there are also allegations that the victim was forcibly raped after she was kidnapped. As per the order dated 10.01.2023 by CWC Panipat, the victim girl was admitted in the hospital and on 17.01.2023, the pregnancy of the victim was terminated by the Medical Board and the sample was sent for DNA examination. The FSL report is awaited.



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9. Per contra, the petitioner has failed to place on record the alleged marriage certificate.
10. Keeping in view the gravity of allegations against the petitioner and the severity of punishment for the alleged occurrence, no ground is made out for releasing the petitioner on bail.
11. Consequently, the present petition stands dismissed.
12. It is made clear that nothing observed hereinabove will be taken to be an observation on the actual merits of the case, which would be gone into by the learned trial Court wholly on the basis of evidence led/gathered before it.
13. Pending miscellaneous application(s), if any, shall also stand disposed of.

July 15, 2024

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(HARPREET KAUR JEEWAN)

JUDGE

Whether Speaking

Whether reportable

Yes

No