

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

316

CRM-M-18357-2024 (O&M)
Date of decision: 09.05.2024

KAMAL

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. L.K. Gollen, Advocate
for the petitioner.

HARPREET KAUR JEEWAN, J.

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.136 dated 25.07.2023 (Annexure P-1) under Sections 506 IPC and Sections 66E, 67-A, 67-B of Information Technology Act, 2000, Section 12 of the POCSO Act, 2012 (in alternate charge under Section 354 (D) has been framed registered at Police Station Women Police Rewari, District Rewari.
2. Notice of motion.
3. On the asking of the Court, Ms. Mayuri Lakhanpal Kalia, DAG, Haryana accepts notice on behalf of the respondent-State.
4. Custody certificate has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the petitioner has undergone 08 months and 25 days of actual custody.
5. Status report by way of an affidavit of Pawan Kumar, HPS, Deputy

Superintendent of Police, HQ Rewari along with disclosure statement of the accused (Annexure R-1) and statement of victim under Section 164 Cr.P.C. have been filed on behalf of the respondent-State, which are taken on record.

6. As per the prosecution case, on 03.07.2023 at about 12.00 noon, an edited and nude photo of the prosecutrix was uploaded on Instagram from Instagram ID Pihu-Parshant. The prosecutrix received a message from the same Instagram ID on 01.07.2023 and 02.07.2023 raising a threat to her to get involved sexually with the said person, failing which he would destroy her family. On 02.07.2023, Ayush-co-accused of the petitioner sent a message to the prosecutrix that he has a nude photograph of the prosecutrix and extended help to her. Thereafter the said story was posted on 03.07.2023.

7. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case and he is in custody since 11.08.2023 as under-trial. The petitioner is a young boy and is student of I.T. Statement of the material witnesses including the prosecutrix have already been recorded during the trial. He further contends that mobile phone of the petitioner was mis-used whereas the petitioner is innocent. The petitioner is ready to face trial. He submits that the petitioner undertakes that no such offence will be committed in the future. He further submits that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. The trial is going to take time to conclude, as such, prayer for releasing the petitioner on bail has been made.

8. On the other hand, learned State counsel on instructions from concerned Investigating Officer has informed that investigation is complete; final report under Section 173 Cr.P.C. has been presented before the trial Court and

charges have also been framed. He has informed that during the investigation, record of above Instagram ID was obtained and it was found that mobile number of the petitioner XXXXXX9709 was used for the said Instagram ID. Thereafter, the petitioner was arrested on 11.08.2023. Mobile phone of the petitioner was recovered and sent for DITAC lab. As per DITAC report, incriminating material was found from the mobile phone of the petitioner. The statement of the prosecutrix was also recorded under Section 164 Cr.P.C. whereas she has supported the prosecution case during trial. There are total 12 witnesses, out of which 3 witnesses have been recorded. As per custody certificate, there is no history of other cases against the petitioner.

9. I have considered the aforesaid contentions. Investigation is complete; final report under Section 173 of the Code of Criminal Procedure has been presented before the trial Court and charges have also been framed. Statement of the material witnesses including the complainant have been recorded. There is scientific evidence which is alleged to have been collected during the investigation by way of report of DITAC lab, as such there is no apprehension of tampering the prosecution evidence. The petitioner is in custody since 11.08.2023 as an under-trial. There are total 12 witnesses, out of which only 3 witnesses have been examined, as such conclusion of the trial will take time. There is no apprehension absconding of the petitioner. As per custody certificate, there is no history of other cases against the petitioner.

10. No doubt the allegations against the petitioner are serious in nature, however keeping in view the fact that the petitioner is a young boy and an IT student and his entire educational career will be affected in case he is kept in custody during trial, the petition is allowed.

11. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.
12. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.
13. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

09.05.2024
P.Bhatt

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