

215

IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

CRM-M-17989-2024

Date of decision: 19th April, 2024

Gaurav

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Abhishek Jindal, 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
337	16.08.2023	Matlauda, District Panipat, Haryana	363, 366A of Indian Penal Code, 1860 (for short ‘IPC’) and Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short ‘POCSO Act’)

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the that the aforementioned FIR was registered on the basis of complaint filed by the complainant 'R' (name withheld) alleging therein that the victim 'S' (name withheld) who was his minor daughter and was residing with her maternal uncle at Punjab, wherein, she was studying in class 12th had gone missing on 15.08.2023. Initially, a case under Section 375 of IPC was registered. Investigation proceedings were initiated. On 19.08.2023, the victim was produced by her father at the police station. Her

statement was recorded. Her medico legal examination was got conducted. On 20.08.2023, her statement under Section 164 Cr.P.C. was recorded on the basis of which offences under Sections 363 and 366-A of IPC and Section 6 of POCSO Act were added, whereas, under Section 365 of IPC was deleted. The petitioner was nominated as an accused. He was arrested on 25.08.2023. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, he is facing trial for commission of aforementioned offences.

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. Neither the complainant nor the prosecutrix have supported the case of the prosecution in their respective sworn depositions as recorded before learned trial Court. He is in custody since 25.08.2023. His further detention would not serve any useful purpose. Therefore, it is argued that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that there are serious allegations against the petitioner. Seminal stains have been found on the clothing of the victim as per the FSL report. Hence, it is argued 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 Annexure P-3, which are copies of statements of the victim as well as her father as recorded before the

trial Court and on a perusal of the same, it is revealed that the victim did not support the prosecution version at all by deposing that no wrong act had been committed upon her and that the petitioner had also not committed any such act upon her. Similar stand is shown to have been taken by her father. Both of them were declared hostile by learned trial Court on request of the public prosecutor and were allowed to be cross examined by him in detail. However, no incriminating evidence is shown to have been extracted from their statements. On the basis of detection of seminal stains on clothing of the victim, at this stage, no interference as to the involvement of the petitioner for commission of subject offences can be drawn. Keeping in view the nature of the evidence which has come on record in the form of statements of the prosecutrix as well as her father, the period spent by the petitioner in custody, but without meaning to make any comment upon the merits of the case, I am of the considered opinion that the petition deserves to be allowed, hence, the same is allowed, 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. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

19th April, 2024

Parveen Sharma	1. Whether speaking/ reasoned	:	Yes
	2. Whether reportable	:	Yes