

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

216

CRM-M No.23469 of 2023
Date of Decision: 22.04.2024

Bholi and another ... Petitioners

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Amandeep Saini, Advocate,
for the petitioners.

Mr. Satjot Singh, AAG, Punjab.
for the respondent-State.

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.	Police Station	Sections
241	City Rupnagar, District Rupnagar	376-D, 370 and 370-A of IPC and 6 and 17 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 the present petition are that the aforementioned FIR was registered on 19.12.2022 on the basis of statement recorded by the prosecutrix "A" (name withheld) who was a 13 years old girl at that time alleging therein that her parents had been divorced in the year 2016. Previously, she had been living with her biological mother but from the last 8-9 months, she had started living with his father and his second wife i.e. the present

Neutral Citation No. 2024:PHHC:054395

petitioner Bholi and the daughter of the latter i.e. petitioner No.2 Sapna. On 16.11.2022, the petitioner and her daughter took her to a park on the pretext of having a walk. She was made to consume some cold drink which was laced with some intoxicating substance and on consuming the same, she did not remain in her normal senses. She was, thereafter, made to board a car by the petitioners and was taken towards some huts wherein she was ravished by the co-accused Karan and Harsh in the presence of the petitioners. Thereafter also, both Karan and Harsh ravished her twice. She alleged that the petitioners had been taking money from the abovesaid Karan and Harsh in lieu of their subjecting her to rape. On 16.12.2022 also, she was forced again by the petitioners to have sexual relations with the co-accused and then she was constrained to disclose about all the facts to her real mother and father. After registration of FIR, investigation was commenced. The prosecutrix was medically examined. Her statement under Section 164 of Cr.P.C. was also recorded. The petitioners were arrested on 03.01.2023. The co-accused Karan was arrested on 11.01.2023. Another accused Harsh Kumar could not be arrested. After completion of usual formalities of investigation, challan against the present petitioners and co-accused Karan was presented in the Court and presently, they are facing trial for commission of aforementioned offences.

3. The present petition has been filed by the petitioners on the grounds and it is argued by their counsel that they have been falsely implicated in this case on behest of the father of the prosecutrix as the relations between the petitioner No.1 and the father of the prosecutrix are not good now and both the petitioners had been thrown out by the father of the prosecutrix and had been residing separately from him as he was not

Neutral Citation No. 2024:PHHC:054395

maintaining the petitioners. It is further submitted that they are in custody since 03.01.2023. The prosecutrix has since been examined. Trial is otherwise likely to take time. There are no chances of their intimidating the witnesses. Offences under Section 376 of IPC and Section 6 of POCSO Act cannot be attributed to them. No useful purpose would be served by their further detention. Trial is likely to take time. Therefore, it is argued that they deserve to be released on bail.

4. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that there are serious and specific allegations against the petitioners of commission of offence of trafficking of the minor victim for the purpose of her sexual exploitation and facilitating her gang rape/commission of acts of aggravated penetrative sexual assault by the co-accused. The victim in her sworn statement recorded before the Court has fully supported the prosecution version with regard to involvement of the present petitioners. The period of incarceration alone is not sufficient to extend benefit of bail to the petitioners. There is nothing on record to show that there would be any undue delay in conclusion of the trial. Rather as reflected from the status report filed by the respondent-State, most of the prosecution witnesses already stand examined. Therefore, 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 allegations against the petitioners who are step mother and step sister respectively of the victim are that they had done immoral trafficking of the prosecutrix for the purpose of her sexual exploitation and

Neutral Citation No. 2024:PHHC:054395

facilitated/abetted the commission of offence of gang rape/aggravated penetrative sexual assault upon her by the co-accused Karan and some other persons. In her statement recorded under Section 164 of Cr.P.C. as well as before the trial Court, she is shown to have reiterated the allegations as levelled in the FIR. These allegations are grave in nature as a minor girl of only 13 years of age was got sexually exploited by none other than her step mother and step sister. It is well settled proposition of law that gravity of the offence is important reason for denial of benefit of bail to an accused. Keeping in view the serious nature of the allegations which have been levelled against the petitioners, the quantum of sentence which the conviction may entail and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

22.04.2024
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(MANISHA BATRA)
JUDGE

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