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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM No.19471 of 2024 in/and
CRA-S No.1624 of 2024
Date of Decision: 13.05.2024

Kuldeep ... Appellant

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ankur Lal, Advocate,
for the applicant-appellant.

Ms. Nidhi Garg, AAG, Haryana,
for the respondent-State.

MANISHA BATRA, J.(Oral)

CRM No.19471 of 2024

The present application has been filed by the applicant-appellant to grant him permission to place on record copy of the FIR No.215 dated 15.06.2023 registered under Sections 323, 324, 34 and 506 of IPC at Police Station Dharuhera, District Rewari.

The application is allowed, subject to just exceptions and copy of the abovementioned FIR is ordered to be placed on record as

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Annexure A-1.

Main Case

1. The instant appeal has been filed under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (For short "SC&ST Act") for setting aside the order dated 07.03.2024 whereby an application for grant of regular bail as filed by the appellant had been dismissed in case arising out of FIR No.210 dated 12.06.2023 registered under Sections 323, 354-A, 452 and 506 of IPC and Section 3 of SC&ST Act at Police Station Dharuhera, District Rewari.

2. Brief facts of the case relevant for the purpose of disposal of the present appeal are that the aforementioned FIR was registered on 12.06.2023 on the basis of a written complaint filed by the complainant "S" alias "M" (name withheld) alleging therein that on the intervening night of 11/12.06.2023, she was sleeping alone in her room as her family members had gone to attend a birthday programme in the house of her uncle. At about 3 AM, the appellant who was her co-villager entered inside her room and tried to force himself upon her. She had pushed him but the appellant forcibly caught hold of her and tried to sexually harass her. She had raised alarm, on hearing which her cousin brothers Gaurav and Manish reached there on seeing whom, the appellant fled away. Initially, a case under Sections 323, 354-A, 452 and 506 of IPC was registered. Investigation proceedings were initiated. Subsequently, offence under Section 3 of SC&ST Act was added. The appellant was arrested on 30.01.2024. After completion of necessary investigation and usual formalities, challan was

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presented before the trial Court and presently, the appellant is facing trial for commission of aforementioned offences. He had moved an application for grant of bail before the learned trial Court which had been dismissed vide order dated 07.03.2024.

3. The present appeal has been filed by the appellant on the grounds and it is argued by his counsel that he has been falsely implicated in this case. He is in custody since 30.01.2024. The real genesis of the occurrence had been concealed by the complainant. Infact, an altercation had taken place between the cousins of the complainant and himself on 11.06.2023. The appellant had been assaulted by them and he sustained grievous injuries at the hands of members of the complainant party. He remained admitted in hospital and was not in a position to get registered his complaint before the police and it was only on 15.06.2023 that the same was lodged, on the basis of which FIR No.215 was registered. The FIR lodged by the complainant was by way of defence to the FIR so lodged by the appellant, by using the complainant as a stooge on behalf of her cousins and by concocting a false story. The injuries on the person of the appellant and the factum of his remaining admitted in hospital due to sustaining those injuries had not been explained in the FIR as lodged by the complainant. The investigation has since been completed. The custodial interrogation of the appellant is not required. The trial is likely to take time. The learned trial Court while passing the impugned order did not take all these facts and circumstances into consideration and, therefore, it is urged that the impugned order be set aside, the appeal be accepted and the appellant be

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extended benefit of bail.

4. The respondent-State has filed status report as per which, the allegations as levelled against the appellant were found to be true on conducting investigation. There were serious allegations against him. Learned State counsel has argued that keeping in view the gravity of the allegations, the appellant does not deserve to be extended benefit of bail. Hence, the appeal is liable to be dismissed.

5. I have heard learned counsel for the appellant as well as learned State counsel and have gone through the record carefully.

6. The allegations levelled against the appellant are that on the intervening night of 11/12.06.2023, he had criminally trespassed into the house of the complainant and sexually harassed her, physically assaulted her and criminally intimidated her. The complainant admittedly belongs to Scheduled Caste. Offence under Section 3 of SC&ST Act was added later on. On the other hand, the claim of the appellant is that on the night of 11.06.2023, he was invited to a birthday party organized at his house by Ravi son of Munim and he along with his friends had boarded him on their vehicle and was taken to the birthday party. While they started having drinks, a scuffle had taken place between them on some issue and Gaurav and Manish opened an assault upon him by inflicting injuries with beer bottle and knife and other persons accompanying them had also assaulted him and thereafter he was thrown at a passage from where he was got admitted in a hospital. Annexure A-1 is copy of FIR bearing No.215 got registered by the appellant on 15.06.2023. On a perusal of contents of this

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FIR, it is revealed that the appellant who was the lodger of the abovesaid FIR had made allegations against Gaurav and Manish who are admittedly cousin brothers of the complainant as well as some other persons that he had been assaulted by them on the night of 11.06.2023. The above named Gaurav and Manish are cited as witnesses to the occurrence of this case also. The appellant is in custody in this case since 30.01.2024. The investigation has since been completed. Trial is likely to take time. With regard to the same night, two different versions have come on record in the form of FIR of this case as well as FIR Annexure A-1. Though this Court at this stage cannot go into the veracity of the versions as given in the FIRs lodged by the complainant and the appellant with regard to the two incidents which had taken place on same night and it is for the trial Court to record finding on that point after thorough assessment and evaluation of the evidence to be produced before it, however, keeping in view the nature of the allegations, the period of incarceration of the appellant, the fact that he was admitted in hospital on the night of 11.06.2023 itself and was in such a condition that he was found unfit to make statement till 15.06.2023 and had suffered injuries on person, coupled with the fact that the trial is likely to take time and there is nothing on record to show that the appellant may abscond or intimidate the witnesses, I am of the considered opinion that the appellant deserves to be extended benefit of bail. Hence, the impugned order dated 07.03.2024 is set aside, the appeal is allowed and the appellant is ordered to be released on bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

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

13.05.2024
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(MANISHA BATRA)
JUDGE

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