

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA-S-1243-2023 (O&M)

DATE OF DECISION : 15.03.2024

AKASH

... APPELLANT

V/S

STATE OF HARYANA AND ANOTHER ... RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Arvind Bansal, Advocate for the appellant.
Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.
Mr. Sunil Polist, Advocate for respondent No.2.

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HARPREET KAUR JEEWAN, J. (ORAL)

1. The present appeal has been filed impugning the order dated 12.04.2023 passed by the learned Addl. Sessions Judge, Special Court, Kaithal dismissing the regular bail application filed on behalf of the appellant in case bearing FIR No. 107 dated 27.08.2021 registered under Sections 363, 366-A, 313, 376(2)(n), 328, 384, 506 IPC, Section 3(2)(v) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Section 6 of Protection of Children from Sexual Offences Act at Police Station Women, District Kaithal.

2. Learned counsel for the appellant contends that the offence under Sections 313, 384, 328 IPC has been deleted during investigation. The investigation is complete. Final report under Section 173 Cr.P.C. has been presented and the statement of the victim as well as her father has already been recorded during of trial. The victim was aged about 20 years of age at the time of registration of the FIR, wherein she has alleged that occurrence took place prior to 2 years ago and there is no plausible explanation for delay.

3. Learned State counsel has confirmed the fact that investigation is

complete and after presentation of challan, 2 out of 15 witnesses have been recorded. He has also confirmed that during the investigation, no evidence was found regarding the abortion of the complainant. Accordingly, the offence under Section 313, 384, and 328 IPC was deleted on 05.10.2021.

4. Learned counsel appearing for the complainant has opposed the bail application on the ground that other witnesses are yet to be recorded. The allegations are serious and there is apprehension of tempering with the evidence.

5. I have considered the aforesaid contentions.

6. As per the medico-legal report (Annexure R-1), the age of the victim is 20 years. No external injuries were found in the said examination. The vaginal swabs were sent for chemical examination. As per the report of Forensic Science Laboratory, Madhuban (Annexure R-2), no semen could be detected on any of the exhibits except the swabs Ex.3 (which belongs to the petitioner).

7. The appellant is in custody since 27.08.2021. The conclusion of trial will take time since there are 13 witnesses which are yet to be recorded. The explanation of the delay is a matter of trial which will be considered by the trial Court.

8. In view of the aforesaid circumstances and without expressing any opinion on the merits of the case, the present appeal is allowed. The order dated 12.04.2023 is set aside and the appellant is ordered to be released on regular bail, subject to his furnishing adequate bonds/surety to the satisfaction of the trial Court/Chief Judicial Magistrate, concerned.

15.03.2024

Janki

**(HARPREET KAUR JEEWAN)
JUDGE**