

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.22345 of 2023
Date of Decision: 01.03.2024

Sandeep alias Bhim ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Raman Chawla, Advocate,
for the petitioner.

Mr. Arjun Lakhanpal, Addl. AG, Haryana.

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.	Dated	Police Station	Sections
228	24.12.2021	Jhojhu Kalan, Tehsil and District Charkhi Dadri	365 and 376-D of IPC and 6 of Protection of Children from Sexual Offences Act, 2012

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 24.12.2021 on the basis of statement recorded by the complainant “S” (name withheld) alleging therein that on the night of 23.12.2021, she along with her family members had slept in their house when at about 11:30 PM, a call was received on the mobile phone of her husband. As her husband was sleeping, therefore, the call was picked by her 13 year old daughter “B” (name withheld) and the petitioner Bhim told her daughter to either come outside or he would make her photos which had been taken earlier, viral.

Neutral Citation No.2024:PHHC:031021

She alleged that out of fear, her daughter had gone outside and then the accused Bhim who was standing outside along with a motor cycle and the co-accused Ashish and Rohit forcibly took her daughter away on the motorcycle. She was taken to a room situated in some field wherein, all three of them committed rape upon her. She alleged that her daughter had raised alarm on hearing which, a person working in the neighbouring fields reached there and on seeing whom, the ravishers had fled away from the spot. The victim was brought back home at about 3 AM and had narrated the entire incident to them. After registration of FIR, investigation proceedings were initiated. The prosecutrix was medically examined. Her statement under Section 164 of Cr.P.C. was recorded. The present petitioner and the co-accused Ashish were arrested on 24.12.2021. They were interrogated and suffered disclosure statements admitting their involvement in the subject crime. The petitioner had recovered the mobile phone and motorcycle used in the crime. The co-accused Yogesh @ Neelam and Rakesh @ Don were also arrested on 25.12.2021 as their names were taken in the disclosure statements of the co-accused. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P.C. was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of the aforementioned offences. He had filed an application for grant of regular bail before the learned trial Court but the same was dismissed vide order dated 20.06.2022.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. He is in custody since 24.12.2021 i.e. for a period of more than

Neutral Citation No.2024:PHHC:031021

two years. He has been implicated to harass and extort money by the petitioner. His custodial interrogation is no more required. The trial is likely to take time. The material witness have since been examined. There are no chances of his intimidating the witnesses. Therefore, it is argued that he deserves to be given concession of bail.

4. The respondent-State has filed status report as per which, there are serious and specific allegations against the petitioner. His name was specifically mentioned in the FIR and he has also suffered disclosure statement admitting his involvement in the crime. He along with the co-accused had committed rape upon the prosecutrix. Human semen had been detected on the clothing of the victim. DNA report is still awaited. The prosecutrix as well as her mother have implicated the petitioner in their sworn statements as recorded before the learned trial Court. 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 petitioner is alleged to have kidnapped/abducted the minor victim as on the night of 23.12.2021 and is alleged to have committed gang rape/act of aggravated penetrative sexual assault upon her with the co-accused Ashish and Rohit who are also facing trial along with him. Though it is urged that the co-accused Yogesh @ Neelam has been extended benefit of bail and on the ground of parity, he too deserves same concession, however, on perusal of record as well as statements of the prosecutrix and her mother, I am of the considered opinion that his case cannot be stated to

Neutral Citation No.2024:PHHC:031021

be at parity with the case of the co-accused Yogesh @ Neelam. The allegations against the petitioner are serious and specific in nature. There is nothing on record to show that there would be any undue delay in conclusion of the trial. Most of the prosecution witnesses have already been examined. Trial is at its fag end. Keeping in view the nature of the allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

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

01.03.2024
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(MANISHA BATRA)
JUDGE

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