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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRA-S No.1833 of 2024
Date of decision: 17.05.2024

Anil ... Appellant

Vs.

State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Gaurav Grover, Advocate,
for the appellant.

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

MANISHA BATRA, J. (Oral)

1. The present appeal has been filed by the appellant under Section 14-A (2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (For short “SC&ST Act”) against the order dated 18.04.2024 as passed by the Court of learned Additional Sessions Judge, Panipat in case arising out of FIR No.212 dated 20.06.2021 registered under Sections 323, 328, 376 (2) (n), 376-D and 506 of IPC at Police Station Israna, Panipat, on the basis of a written complaint filed by the respondent No.2-complainant who is a member of Scheduled Caste community alleging therein that she had come into contact with the appellant sometime in September 2017 through her classmate Pankaj. The appellant induced her to meet her once and on his

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asking, she had gone to meet him. He had taken her to a hotel on the pretext of having tea and was offered tea laced with some intoxicating substance, on consuming which, she had become unconscious and was subjected to rape by him. When she gained consciousness, she had been informed by the appellant that he had taken her objectionable pictures and procured videos and threatened to make the same viral, if she disclosed about the incident to anybody. She alleged that the appellant then made promise to marry her and on that pretext kept on maintaining physical relations with her on different occasions. In August 2018, he even tried to get her sexually assaulted by some of his friends after committing rape upon her in a car but she could save herself with great difficulty. On the basis of her statement, initially a case under Sections 323, 328, 376 (2) (n), 376-D and 506 of IPC was registered. Offence under Section 3 of SC&ST Act was added later on and offence under Section 376-D of IPC was deleted. The victim refused to get her medical examination conducted. The appellant was arrested on 20.06.2021 and is presently facing trial before the concerned Court. He had previously moved application for grant of bail before the Special Courts which was dismissed. Appeals filed against that order had also been dismissed by this Court. Then he filed second application for grant of bail before the learned trial Court which was dismissed vide the impugned order dated 18.04.2024.

2. It is argued by learned counsel for the appellant that the impugned order is not sustainable in the eyes of law and is liable to be set

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aside and he deserves to be released on bail due to the reason that after dismissal of his previous bail application by the trial Court and appeals filed against that application before this Court, there is a change in the circumstances. The prosecutrix and other material witnesses have since been examined. The trial is at its last stages. The period of his incarceration has also increased. It is argued that the learned trial Court while dismissing the application moved by him for grant of regular bail did not consider these points and, therefore, it is argued that the appeal be allowed, the impugned order be set aside and he be extended benefit of bail.

3. Per contra, learned State counsel has argued that there is no change in circumstances from the date of dismissal of the previous bail application as filed by the appellant before the trial Court and dismissal of the appeals filed against it by this Court. This Court itself had dismissed his appeal challenging the order declining grant of bail by Special Court by filing CRA-S-356 of 2023 which had been dismissed on 28.02.2024 and no new ground has been made out for allowing the appeal. Therefore, it is argued that the appeal is liable to be dismissed.

4. I have heard learned counsel for the appellant and learned State counsel at considerable length and have gone through the record.

5. It is apparent from the material placed on record that the impugned order had been passed on the second application for grant of regular bail as filed by the appellant before the learned trial Court. It has also come on record that previously also, the application for grant of bail

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of the appellant had been dismissed and appeal filed by him was also dismissed vide order dated 28.02.2024 as mentioned above. No doubt, one of the grounds as taken while dismissing of the appeal bearing CRA-S-356 of 2023, was that the cross-examination of the prosecutrix was yet to be recorded and the appellant has now placed on record copy of the sworn statement of the prosecutrix as recorded before the trial Court. However, since previous appeal of the appellant had not been dismissed only on that ground alone but also by taking overall circumstances into consideration and since no material change in the circumstances now appears to have taken place. Rather, it is revealed that in her statement recorded before the trial Court, the prosecutrix has supported the prosecution version, therefore, keeping in view this fact coupled with the reason that as per the pleas taken in the appeal itself, most of the prosecution witnesses have already been examined and the trial is at the fag end, I am of the considered opinion that no ground has been made out for allowing the present appeal. Accordingly, the same is dismissed.

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

17.05.2024

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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No