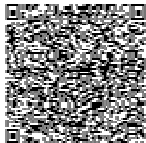


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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

218

CRM-M-22324-2024 (O&M)
Date of decision: 29.07.2024

Anil Thakur

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Kunal Dawar, Advocate
For the petitioner.

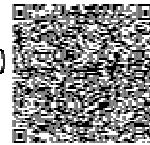
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition that has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 152 dated 03.05.2022, registered under Sections 376-D, 307, 506, 324, 34 of the IPC (Sections 328, 201 of IPC added later on) at Police Station DLF Phase-III, District Gurugram. The first petition, bearing number **CRM-M-11625-2023**, was dismissed by this Court on 14.12.2023.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of the statement recorded by complainant 'M' (*name withheld*) on 03.05.2022 alleging therein that victim 'A' (*name withheld*), who was his wife, had been subjected to rape by the present petitioner and co-accused Majibul Haq on 02.05.2022 and was also stabbed with a knife and was admitted in the

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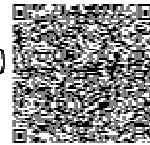


hospital. After registration of the FIR, investigation proceedings were initiated. The petitioner was arrested on 03.05.2022. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently the petitioner is facing trial for commission of aforesaid offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since 03.05.2022. The complainant, who is husband of the victim, is not coming forward for his examination as a witness and he is not traceable by the police official and that is why the trial is being delayed. The injury invoking Section 307 of IPC has not been attributed to the petitioner but to the co-accused. The first bail petition of the petitioner had been dismissed by this Court on the information given by the respondent-State that the DNA profiling of the seminal stains as lifted from the clothing of the victim had matched with the DNA profiling of the petitioner, which in fact is incorrect since as per FSL report, which has been tendered in evidence, no male DNA profile could be obtained from the clothing of the victim. Hence, it could not be matched with the DNA of the blood samples of the petitioner. It is argued that since his previous bail petition had been dismissed by considering the DNA report to be against the petitioner and since he has undergone further incarceration for a period of more than 07 months, therefore, he deserves to be extended benefit of bail.

4. On the other hand, learned State counsel has argued that the previous bail petition filed by the petitioner was dismissed not only on the ground of FSL report but also on merits by taking into consideration the gravity of allegations as levelled against him, the nature of testimony of the

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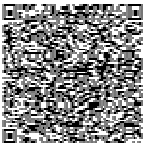


prosecutrix, who had been examined by that time as well as in view of overall facts and circumstances of the case. Therefore, it is urged that no ground has been made out for allowing the present petition and that the same is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

6. The petitioner along with co-accused (who has not yet been arrested) is alleged to have subjected the victim to gang rape on 02.05.2022 and co-accused is alleged to have stabbed the victim in her abdomen, thereby causing her serious injuries. The prosecutrix has been examined and while appearing as a witness, she has identified the petitioner as one of the persons, who subjected her to rape. He had also been named by the victim at the very first instance and she had identified him in test identification parade also. No doubt, there was some miscommunication on behalf of the respondent-State with regard to the results of DNA report since copy of the same has now been placed on record, which shows that since no male DNA could be obtained from the clothing of the victim, it could not be matched with the DNA of blood samples of the petitioner. However, the same was not the only ground for dismissal of the first bail petition of the petitioner. Therefore, on account of that fact, the petitioner cannot seek any concession. The allegations against him are quite serious in nature. It has come on record that even the evidence of the prosecution has since been closed and the trial is at the fag end. Keeping in view the gravity of offences alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that

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the petitioner does not deserve to be given concession of regular bail. Hence,
the petition stands dismissed.

29.07.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No