



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-27031-2024
Date of decision: 31st May, 2024

Sahil
...Petitioner(s)
Versus
State of Haryana
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ketan Antil, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in the FIR mentioned below:-

FIR No.	Date	Police Station	Sections
434	12.12.2023	Civil Lines, Sonipat, District Sonipat	365 of IPC, 1860 (Section 6 of POCSO Act and Sections 506, 363, 366 and 376(2) (n) of IPC, 1860 added later on)

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was initially registered under Section 365 of IPC on the basis of a written complaint filed by the complainant 'G' (name withheld) alleging therein that the prosecutrix 'A' (name withheld) who was her minor daughter, had gone to bring some goods from the market on 11.12.2023 and did not return. Investigation proceedings



were initiated. During investigation, the prosecutrix was recovered. Her statement under Section 164 of Cr.P.C. had been recorded, wherein she stated that on 11.12.2023, she had left her house as per her own will and did not want to say anything else. She even refused to get her medical examination conducted. Her medical examination was conducted on 22.12.2023. Offences under Sections 363, 366, 376(2)(n) and 506 of IPC read with Section 6 of POCSO Act were added. The petitioner was arrested on 22.12.2023. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for the commission of the aforementioned offences. He had filed an application for grant of regular bail before the Additional District and Sessions Judge, Fast Track Special Court, Sonipat which was dismissed vide order dated 15.05.2024.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. The prosecutrix and her mother did not support the prosecution version before the Learned trial Court. Even in her statement recorded under Section 164 Cr.P.C., the prosecutrix has not levelled any allegation against the petitioner. No useful purpose would be served by detaining him in custody anymore. Therefore, it is argued that he deserves to be released on bail.

4. *Per contra*, learned State counsel has argued that there are serious allegations against the petitioner. As per the medico legal report,



possibility of her being subjected to sexual assault could not be ruled out. Therefore, it is argued that the petitioner does not deserve to be extended benefit of bail.

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 enticed away the minor prosecutrix and taken her out of her lawful guardianship without the consent of her parents and is further alleged to have subjected her to acts of aggravated penetrative sexual assault/ repeated rape and is further alleged to have criminally intimidated her. The petitioner has placed on record Annexures P-2 and P-3 which are copies of statements of the prosecutrix and her mother, respectively as recorded before the Learned trial Court. The prosecutrix is shown to have stated that on the fateful day, she had gone to the house of her friend Shivani, out of rage as her mother had got her studies stopped and she wanted to continue the same. With regard to accused-petitioner, she even denied knowing him and stated that he had not committed any wrong act with her. She denied that she had made any statement to the police that the petitioner had induced her and had committed rape upon her. Even the mother of the prosecutrix is not shown to have deposed anything against the present petitioner and stated that prosecutrix had gone to the house of her friend Shivani and nothing wrong had happened with her. Keeping in view the nature of the evidence which



has come on record in the form of testimonies of the prosecutrix and her mother, the period of incarceration of the petitioner and the attendant facts and circumstances of the case, I am persuaded to hold that further detention of the petitioner would not serve any useful purpose. Therefore, the petition is allowed and the petitioner is ordered to be released on bail, subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

31st May, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No