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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRA-S No.2052 of 2024
Date of decision: 29.05.2024

Amit ... Appellant

Vs.

State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Shokeen Singh Verma, Advocate,
for the appellant.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J.

1. The present appeal has been filed by the appellant under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (For short “Act, 1989”) challenging the order dated 06.05.2024 as passed by learned Additional Sessions Judge, Sirsa in bail application arising out of FIR No.100 under Sections 341, 354 and 354-D/34 of IPC, Sections 10 and 12 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”) and Section 3 of the Act, 1989 at Police Station Ding, District Sirsa, whereby an application for grant of regular bail as filed by the appellant had been dismissed.

2. Brief facts of the case relevant for the purpose of disposal of

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the present appeal are that the aforementioned FIR was registered on 08.05.2023 on the basis of statement recorded by the complainant “S” (name withheld) alleging therein that she along with the victim “K” (name withheld) who was her cousin sister, was studying in the local Government school. The victim is a specially abled girl aged 14 years who is unable to speak and hear. While both of them were on the way to school, they were intercepted by the present appellant and co-accused Vikram who came riding on a bike. The appellant after stopping his bike in front of them, pulled the victim towards him and caught her with waist. She tried to rescue her and then both the appellant and co-accused started hurling abuses to both of them in the name of their caste. She raised alarm and thereafter both of them fled away. She reached the school and told the Principal about the entire incident, who informed that parents who took them to the Police Station. After registration of FIR, investigation proceedings were initiated. The present appellant was arrested on 02.06.2023. The statement of the complainant under Section 164 of Cr.P.C. was recorded. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the appellant along with the co-accused are facing trial for commission of the aforementioned offences. He had moved second application for grant of regular bail before the learned trial Court which was dismissed vide the impugned order dated 06.05.2024.

3. It is submitted by learned counsel for the appellant that the

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impugned order is not sustainable in the eyes of law and is liable to be set aside due to the reason that the appellant has been falsely implicated in this case. The co-accused Vikram whose case is on similar footing has already been granted concession of regular bail by this Court in CRA-S No.2628 of 2023 decided on 09.05.2024. On the ground of parity, the appellant too deserves to be given same benefit. The complainant has already been examined. There are no chances of his intimidating the witnesses. No useful purpose would be served by keeping him in custody. While passing the impugned order, the learned trial Court did not take all these circumstances into consideration. With these broad submissions, it is argued that the impugned order is liable to be set aside and the appeal filed by the appellant deserves to be accepted.

4. Per contra, it is argued by learned State counsel that there are serious allegations against the appellant and, therefore, he does not deserve to be given concession of bail. It is submitted that the learned trial Court did not commit any error in dismissing the plea for bail and accordingly, it is urged that the appeal does not deserve to be allowed.

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

6. As per the allegations, the appellant along with the co-accused Vikram had tried to outrage the modesty of the victim and sexually harassed her on 08.05.2023 by intercepting her, catching her with waist

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and pulling her towards him. The complainant has since been examined. The victim being a specially abled child is not in a position of recording her statement. There are no chances of appellant’s intimidating the witnesses. The trial is likely to take time. No useful purpose would be served by keeping the appellant in custody any more. Taking into consideration the nature of the allegations as levelled against the appellant, the period of his incarceration, on the ground of parity and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that the appeal deserves to be allowed. Accordingly, the same is allowed and the impugned order dated 06.05.2024 is set aside and the appellant is ordered to be released on bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

29.05.2024
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(MANISHA BATRA)
JUDGE

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