

2024:PHHC:118434



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

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CRM-M-34229-2024 (O&M)
Date of decision: 10.09.2024

Paramjit Kaur @ Pammi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Lokesh Vohra, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition, which has been filed by the petitioner under Section 439 Cr.P.C. seeking grant of regular bail in case bearing FIR No. 473 dated 05.11.2022, registered under Sections 376-D of IPC, Sections 3 and 4 of the POCSO Act, 2012 (Sections 376D-A, 372, 34 of IPC and Sections 5, 6 of the POCSO Act added later on) at Police Station City Faridkot, Faridkot. The first petition, bearing number **CRM-M-24754-2023**, was dismissed by this Court, vide order dated 06.03.2024.
2. As per allegations in the FIR, the petitioner and the mother of the prosecutrix, who was only 14 years of age at the time of commission of subject offences, had thrown her into the mud of prostitution and had facilitated the acts of rape on the person of the prosecutrix by several persons.

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After registration of the FIR, investigation proceedings were initiated. The petitioner was arrested on 05.11.2022. The statement of the prosecutrix was recorded, wherein she reiterated the allegations as levelled in the complaint. 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 abovementioned offences. As mentioned above, the petitioner had filed the aforesaid petition before this Court for grant of regular bail but the same had been dismissed by this Court by passing a detailed order.

3. The only argument, which has been raised by learned counsel for the petitioner for grant of regular bail to the petitioner, in addition to the arguments already addressed in the first petition, is that as per DNA report, no human semen and male DNA was detected on the samples and that the petitioner is in long incarceration. Therefore, it is urged by him that the petition deserves to be allowed.

4. *Per contra*, it is argued by learned counsel for the respondent-State that the previous petition as filed by the petitioner was dismissed by passing a detailed order by this Court by taking into consideration the contentions raised by both sides. It is submitted that no new change in the circumstances has been pointed out. The mere extended period of incarceration alone is not sufficient to grant benefit of bail to the petitioner. Allegations against the petitioner are quite serious in nature. Merely because of the fact that as per DNA report, no human semen and male DNA was

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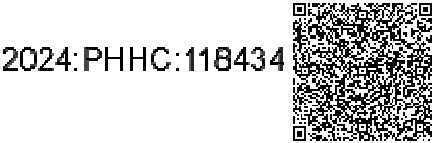


detected on the samples cannot alone be a ground for grant of regular bail.

Therefore, it is urged 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 previous petition as filed by the petitioner for grant of regular bail had been dismissed vide order dated 06.03.2024. The instant one has been filed within a period of six months of the said order. It is well settled proposition of law that when successive bail applications come before the Court, the Court should be very cautious while considering the same. Successive bail applications can be entertained by the Court when some substantial change is established by the accused thereby making him entitled for grant of bail. Reference in this regard can be made to ***State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 Supreme Court, 2292***, wherein it was observed so and it was further held that the Court should not pass an order of release of an accused on bail in successive bail application merely establishing some cosmetic change between time gap of two applications. There must be some drastic change during the period between two applications. Reference can also be made to ***Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and another (2004) 7 SCC 528***, wherein it was observed by Hon'ble Supreme Court that where the offence alleged against an accused is grave, bail cannot be granted only on the ground of long incarceration.



7. After hearing the contentions as raised by learned counsel for the petitioner, I am of the considered opinion that no substantial or drastic change from the date of dismissal of the previous petition as moved by the petitioner has been pointed out or made out from the pleas taken by the petitioner. Merely the extended/prolonged period of incarceration or examination of some material witnesses is not a ground to extend any such benefit. So far as the DNA report is concerned, the same alone cannot be a ground for grant of regular bail to the petitioner, keeping in view the gravity of allegations levelled against the petitioner. More so, the victim has since been examined before the trial Court as PW-1 and a perusal of her statement reveals that she has fully supported the case of the prosecution qua the present petitioner. There are quite serious and specific allegations against the petitioner. The trial is also going on at a good pace and there is nothing to show that there would be any undue delay in conclusion of the same. Keeping in view the nature and gravity of the offence, in my considered opinion, it is not a fit case to enlarge the petitioner on bail, especially in view of the fact that no drastic or material change in the circumstances has been made out. In view of the discussion as made above, but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

10.09.2024	(MANISHA BATRA)
<i>Waseem Ansari</i>	JUDGE
<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>