

2024:PHHC:085050



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

229

**CRM-M No.31103 of 2024
Date of Decision: 08.07.2024**

Dheeraj ... Petitioner
Versus
State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Jagmohan Ghumman, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

MANISHA BATRA, J.

1. This is the second petition filed by the petitioner under Section 439 of Cr.P.C. seeking regular bail in FIR bearing No.69 dated 19.03.2023 registered under Section 363 of IPC (Sections 17, 18, 4 and 6 of Protection of Children from Sexual Offences Act, 2012 and Section 506 of IPC were added later on) at Police Station Sector-56, District Gurugram. His first bail application bearing CRM-M-48371 of 2023 (O&M) was dismissed by this Court on 22.11.2023. This FIR had been registered against the petitioner on the allegations that on 17.03.2023, the co-accused Suraj, Vishnu and Bhim Sen had enticed the victim and had brought her along with them in a room and had committed rape upon her whereas the petitioner had facilitated the commission of offence of rape upon the victim by making available a room for the co-accused in the guest house in which he was working.

2024:PHHC:085050



2. It is submitted by learned counsel for the petitioner that there is change in the circumstances as the victim and her father have been examined before the trial Court now and they have not supported the version of the prosecution qua the involvement of the petitioner and have not implicated him in the allegations as levelled against him. The petitioner is in custody since 23.03.2023. Therefore, it is urged by the petitioner's counsel that the petitioner deserves to be extended benefit of bail as no useful purpose would be served by detaining him in custody any more.

3. Learned State counsel has very fairly admitted the fact that the victim and her father have not made any deposition as against the present petitioner while recording statements before the trial Court.

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

5. Annexure P-3 is copy of sworn deposition of the victim as recorded before the trial Court on 23.11.2023 and a perusal of the same reveals that though she implicated the co-accused (two of whom are juvenile in conflict with law) in the act of alluring her and then committing the offence of aggravated penetrative sexual assault upon her but stated that she did not know the present petitioner and no wrong act had been committed with her by him. Then Annexure P-4 is copy of sworn deposition of the complainant i.e. father of the victim and he too is not shown to have made any deposition as against the petitioner and rather is shown to have stated that he had never told the police that the petitioner had committed any wrong act with his daughter. Keeping in view the nature of the evidence which has

2024:PHHC:085050



come on record in the form of statements of these two material witnesses, I am of the considered opinion that there is certainly change in the circumstances of the case after recording of statements of material witnesses who have not implicated him in the subject crime and hence in view of this fact coupled with the period of incarceration of the petitioner and the attendant facts and circumstances, it is observed that no useful purpose would be served by keeping the petitioner in custody any more. Therefore, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

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

08.07.2024
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(MANISHA BATRA)
JUDGE

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