



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211

CRM-M-29838-2024 (O&M)
Date of decision: 03.07.2024

KULDEEP

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. Rohtash Kumar, Advocate
for the petitioner (through video conferencing).

Mr. Amrik Singh Narwal, DAG, Haryana.

HARPREET KAUR JEEWAN , J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.446 dated 17.11.2023 (Annexure P-1) under Section 346 IPC (Sections 8, 18 of the POCSO Act, 2012 and Sections 120-B, 354-A(1)(I), 363, 366-A, 379-A IPC added later on) registered at Police Station Hansi Sadar, District Hisar.
2. As per the prosecution case, the FIR (Annexure P-1) was registered at the instance of the father of the victim with the allegations that her daughter aged about 16 years had left home without informing anyone. Initially a missing report was lodged on 17.11.2023, thereafter, the victim was recovered on 20.11.2023 and her statement under Section 164 Cr.P.C. (Annexure P-2) was recorded. In the said statement, the victim has levelled specific allegations of sexual abuse against the petitioner. The said statement reads as under:



“Stated that on 20.11.2023 prosecutrix was recorded before the magistrate, where she disclosed in that 17.11.2023 at about 4:00 PM, She along with the Kuldeep and Manjeet had gone from her village to Jhajjar on a bike, We went go to Jhajjar from the village. Kuldeep taken money from me at their, I Had stolen a sum of Rs.20000/ (Twenty Thousand rupees only) from her house on the asking of accused Kuldeep and out of the same Kuldeep had taken an amount of Rs. 10000 (Ten Thousand rupees only). She disclosed that accused sexually harass and assaulted her at Jhajjar and Kuldeep forcefully kiss and with the mala-fide intention forcefully touch my private parts, thereafter he left from Jhajjar while leaving her with the co- accused Manjeet. The co-accused Manjeet had also snatched amount of 5000 from her and made her board a train. After reached the Jodhapur I try to contact to Kuldeep. Kuldeep ask for me Jaipur. After I reached jaipur I again try to Kuldeep through third person, kuldeep did not responded. There after I reached gurugram from where. At gurugram my father came their. legal action taken against Kuldeep and Co- accused Manjeet”

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case and he is in custody since 30.11.2023. He further contends that there are contradictions in the statement of the victim as recorded by the Counsellor and as suffered by the victim under Section 164 Cr.P.C. However, learned counsel for the petitioner could not show any document as part of the paper-book to reflect such contradiction. He further contends that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. The petitioner is ready to face trial. Conclusion of trial is going to take time, as such prayer for releasing the petitioner on bail has been made.

4. On the other hand, learned State counsel has opposed the bail petition on the ground of serious allegations levelled against the petitioner. He has informed that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. He submits that age of the prosecutrix was less than 16 years on the date of the alleged occurrence whereas age of the petitioner was 25 years.



5. I have considered the aforesaid contentions.
6. The statement of the prosecutrix recorded under Section 164 Cr.P.C. reflects that she has fully supported the prosecution case and levelled allegations of sexual assault against the petitioner apart from taking away money from her. There are allegations that even the co-accused (Manjeet) of the petitioner had snatched Rs.5,000/- from victim and made her board a train.
7. Though the final report under Section 173 Cr.P.C. has been presented before the trial Court however statement of the prosecutrix is yet to be recorded. There is presumption against the petitioner in such cases since the allegations show *prima facie* offence having been committed under Section 8 and 18 of the POCSO Act, 2012. At this stage, there is apprehension that the petitioner would hamper the prosecutrix (who is of tender age) to appear as witness, in case the petitioner is released on bail.
8. Consequently, the present petition is dismissed.
9. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.
10. Pending miscellaneous application (s), if any, shall also stand disposed of. disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

03.07.2024
P.Bhatt

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