

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

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CRM-M-32781-2023 (O&M)
Date of decision: 01.02.2024

Trilok Singh @ Sonu

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sajal Bansal, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 32 dated 18.01.2023, registered under Section 365 of IPC (Sections 120-B, 180, 365, 376 of IPC and Section 4 of the POCSO Act were added later on) at Police Station Pinjore, District Panchkula.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a complaint submitted by the complainant 'S' (*name withheld*) alleging therein that her daughter 'M' (*name withheld*), who was studying in 12th Class, had come to her school at about 09:15 AM on 18.01.2023 but after leaving school,

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she did not come back to house. On making enquiry from the school, it was told that she was absent from the school on the said day. The complainant made search for her but could not trace her. On this complaint, initially a case under Section 365 of IPC was registered and investigation proceedings were initiated. The victim was recovered on 19.01.2023 from a colony situated in Pinjore. Her statement under Section 164 Cr.P.C. was recorded, wherein she stated that she was taken by the present petitioner to meet one Mukesh @ Golu on the pretext that he had consumed phenyl. However, when she met Mukesh @ Golu, he was all fine. Then, Mukesh @ Golu took her to the house of his friend, where he ravished the victim. She also stated that the petitioner and co-accused Mukesh @ Golu were in constant touch with each other on the day of occurrence. The victim was got medico-legally examined. In view of the statement of the victim recorded under Section 164 Cr.P.C., offences under Sections 120-B, 180, 365, 376 of IPC and Section 4 of the POCSO Act were added in the FIR. The petitioner was arrested on 26.03.2023. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P.C. was presented in the Court for trial of the petitioner as well as co-accused for commission of aforesaid offences and presently, the petitioner is facing trial. He had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 18.05.2023.

3. The present petition has been filed by the petitioner on the grounds and his counsel has argued that he has been falsely implicated in this case. The petitioner is in custody since 26.03.2023. His custodial interrogation is not required. The allegations of commission of offence of aggravated

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penetrative sexual assault are not against him. The trial is likely to take some time. No useful purpose will be served by him in custody anymore. Hence, it is prayed that the present petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that the allegations against the petitioner are as serious as against the main accused. He, despite being cousin brother of the victim, not only made the victim go to meet the main accused by giving a wrong information that he had consumed phenyl but he made sure that she reached there. In her statement recorded under Section 164 Cr.P.C., the victim had clearly stated that the petitioner used to tell her that co-accused Mukesh @ Golu loved her very much. She also stated that as her own brother had committed suicide because of some girl, therefore, she got scared that Mukesh @ Golu might not do so and that is why she had gone to see him. The call details of the petitioner and main accused Mukesh @ Golu, as collected during investigation, reveal that as many as 13 calls were exchanged between them on 18.01.2023 and 19.01.2023. The petitioner is *prima facie* shown to have intentionally aided the commission of offence of penetrative sexual assault/rape upon the victim by co-accused Mukesh @ Golu and as he had abetted the commission of a serious offence, therefore, he does not deserve to be given benefit of bail.

5. I have heard learned counsel for the parties and have also gone through the material placed on record carefully.

6. As per allegations, on the night of 17.03.2023, while chatting with the present petitioner, who is cousin brother of the victim, he had told her that Mukesh @ Golu had consumed phenyl. Admittedly, the petitioner is friend of Mukesh @ Golu. It was on receipt of this message that she had gone

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to meet co-accused by bunking her school. In her statements recorded before the police under Section 161 Cr.P.C. as well as under Section 164 Cr.P.C., the victim is shown to have specifically stated that it was on the basis of information so given that she had gone to the house of Mukesh @ Golu but he was found to be in a fit condition and that the present petitioner was also present in the house of co-accused on that day. She also stated that in her statement recorded under Section 164 Cr.P.C. that Mukesh @ Golu, by taking her to the house of some relative, had committed rape upon her and it was only in the next morning that they had left that house. She stated that in the meanwhile, accused Mukesh @ Golu had been continuously talking with the present petitioner. On the basis of the material, which is available on record, it is clearly revealed that the petitioner intentionally aided the commission of offence of penetrative sexual assault upon the victim by co-accused Mukesh @ Golu, by firstly inducing her to go to meet him and even facilitated the commission of rape by co-accused Mukesh @ Golu. The victim is minor. As per section 17 of the POCSO Act, any person abetting any offence under the provisions of this Act is liable for the same punishment, which is provided for that offence.

7. Respondent-State has placed on record call details of the mobile phone of the petitioner and co-accused Mukesh @ Golu, which reveal that on 18-19.01.2023, as many as 13 calls were exchanged between them. During the course of arguments, learned counsel for the petitioner has not been in a position to give any satisfactory reply to the question posed by this Court as to the reason for making so many calls to each other by them, which also raises a reasonable suspicion that they were hands in glove to commit subject offence

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as against the victim. Allegations against the petitioner are quite serious in nature. The trial has commenced. In her sworn deposition, the victim is shown to have fully supported the prosecution version with regard involvement of the petitioner and the part as played by him. There is nothing on record to show that there would be any undue delay in trial. Keeping in view the gravity of offences alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that the petitioner does not deserve to be given concession of regular bail. Hence, the petition stands dismissed.

8. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

01.02.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>