



CRM-M-35332-2024

-1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

210

CRM-M-35332-2024

Date of decision: 7th November, 2024

Gurlal Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. R.S. Sidhu, Advocate for the petitioners.

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

MANISHA BATRA, J (ORAL):-

The instant one is the third petition filed by the petitioners seeking grant of regular bail. The first petition as filed by the petitioners bearing CRM-M-33576-2023 was dismissed on 05.03.2024, whereas the second petition bearing CRM-M-24369-2024 was dismissed as withdrawn vide order dated 20.05.2024.

2. As per the allegations, FIR No. 268 dated 26.11.2020 was registered under Sections 363, 366-A of IPC, 1860 read with Section 8 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') (Sections 376, 120-B of IPC, 1860 and Sections 4 and 6 of POCSO Act added later on) at Police Station Patti, District Tarn Taran, on the basis of statement of recorded by the complainant 'S' (name withheld) alleging



therein that his two minor daughters 'K' and 'N' (name withheld) had gone missing on the night of 21.11.2020. He raised suspicion that the victims had been enticed away by the present petitioners on the pretext of performing marriage with them. During the course of investigation, the victims were recovered from the custody of the petitioners. Their statements were got recorded and offences under Section 376 of IPC and Sections 4 and 6 of POCSO Act were added. The petitioners suffered disclosure statements admitting their involvement in the commission of act of kidnapping the victims and subjecting them to the act of aggravated penetrative sexual assault. The petitioners were arrested on 13.12.2020. On their disclosure statements, the co-accused Nishan Singh was nominated as an accused who has also been arrested. The aforementioned offences were added during the course of investigation. Presently, the petitioners along with the co-accused are facing trial.

3. The present petition has been filed by the petitioners on the grounds and it is argued by their counsel that the circumstances have changed since the date of dismissal of their previous petition for grant of regular bail as the prosecutrix stands examined. The co-accused Nishan has also been extended benefit of bail. The extended period of incarceration entitles them to seek concession of bail. Therefore, it is argued that the petition deserves to be allowed. He has also placed on record copy of statement recorded by one of the prosecutrix and her mother before the learned trial Court.

4. *Per contra*, learned State counsel who has advance notice of the



petition, has submitted that there are serious and specific allegations against the petitioner as they not only enticed away the minor victims out of lawful guardianship but also subjected them to aggravated penetrative sexual assault. The victim 'K' in her sworn deposition recorded before the police has fully supported the prosecution version and has levelled allegations that the petitioners had committed rape upon her sister and herself.

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. As per the allegations, the petitioners had taken out the minor prosecutrix and her sister out of the custody of her parents and had committed rape upon them. One of the prosecutrix has been examined before the learned trial Court and copy of her sworn statement has been placed on record. A perusal of the same reveals that she had supported the prosecution version by saying that the petitioners were the persons, who had kidnapped her and committed rape upon her sister and herself. There is no substantive change in the circumstances from the date of dismissal of the previous bail petition. The allegations against the petitioners are serious in nature. There is nothing on record to show that there would be any undue delay in conclusion of the trial. One of the previous petitions as filed by the petitioners has been dismissed as withdrawn and one petition bearing CRM-M-33576-2023 had been dismissed on merits vide order dated 05.03.2024. 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. In view of the above discussion and keeping in view the facts and circumstances of the case but without meaning to make any comment on the merits thereof, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

7th November, 2024

Parveen Sharma

1. Whether speaking/ reasoned
2. Whether reportable

: Yes / No
: Yes / No