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

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**CRM-M No.34492 of 2024
Date of Decision: 13.12.2024**

Balwinder Singh @ Bindi

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Karandeep Singh Sidhu, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab,
for the respondent-State.

Mr. Manu Loona, Advocate,
for respondent No.2.

MANISHA BATRA, J. (Oral)

1. The petitioner who is facing trial for commission of offences punishable under Sections 363, 366-A and 149 of IPC (Section 376 of IPC, Section 6 of the Protection of Children from Sexual Offences Act, 2012 (For short "POCSO Act") and Sections 9 and 10 of Prohibition of Child Marriage Act, 2006 added later on) in case arising out of FIR No.35 dated 10.04.2021 at Police Station Arniwala, District Fazilka, has filed this petition, making prayer for release on regular bail. He had previously been extended benefit of regular bail by the Court of Sessions Judge, Fazilka vide order dated 13.07.2021. Subsequently, an application

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for cancellation of bail had been filed by the complainant on the ground that after grant of benefit of regular bail, another case bearing FIR No.140 dated 10.10.2021 had been registered against the petitioner and others under Sections 323, 325, 148, 149 and 452 of IPC at Police Station Arniwala on the allegations that the petitioner by forming membership of an unlawful assembly with the co-accused, had criminally trespassed into the house of uncle of the prosecutrix on 14.09.2021 and had caused simple as well as grievous injuries to his family members. The said application was allowed and the bail of the petitioner was accordingly cancelled by observing that he had violated the terms and conditions of bail with impunity. The petitioner then moved another application for regular bail before the trial Court which too was dismissed as on 18.04.2022 by making similar observations to the effect that he had violated the conditions of benefit of bail previously granted to him.

2. It is argued by learned counsel for the petitioner that he has been extended benefit of regular bail in case bearing FIR No.140. He has been falsely implicated in the said case. He had rightly been released on bail by the Court of learned Sessions Judge, Fazilka vide order dated 13.07.2021. The prosecutrix had admitted in her statement recorded under Section 164 of Cr.P.C. that she had herself eloped with the petitioner and had solemnized marriage with him and had also stated that she did not want to accompany her parents. Challan has since been presented in this case. Not only, the prosecutrix but her mother as well as complainant have already been examined. There are no chances of his intimidating these witnesses. The trial

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is likely to take time since 20 more witnesses are yet to be examined. There are no chances of his absconding or tampering with evidence. He is in custody since 04.02.2022. Therefore, it is urged that he deserves to be extended benefit of bail.

3. Status report has already been filed by the respondent-State. It is submitted therein and it is argued by learned State counsel assisted by learned counsel for respondent No.2-complainant that there are serious allegations against the petitioner who had kidnapped the minor prosecutrix out of lawful custody of her parents and had subjected her to aggravated penetrative sexual assault. As per FSL report, human semen detected on the vaginal swabs was identified to be that of the petitioner. The petitioner violated the terms and conditions of the benefit of bail previously extended to him and criminally intimidated the family of the prosecutrix by trespassing into their house. He is a habitual offender since as many as four other cases have been registered against him two of which are pertaining to the provisions of NDPS Act. Therefore, it is urged that the petition does not deserve to be allowed.

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

5. The petitioner is facing trial for commission of offences punishable under Sections 363, 366-A and 376 of IPC as well as Section 6 of POCSO Act on the allegations that he had enticed away the minor daughter of the complainant and had subjected her to acts of aggravated penetrative sexual assault. It is not in dispute that he was extended benefit of

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regular bail by the trial Court vide order dated 13.07.2021. However, subsequently, on moving of an application for cancellation of bail alleging that he had violated the terms and conditions of grant of bail and in view of the fact that an FIR No.140 dated 10.10.2021 had been registered against the petitioner and other co-accused as he had criminally trespassed into the house of uncle of the prosecutrix with whom she had staying and had assaulted the family members of her maternal uncle as well as maternal uncle, the concession of bail was cancelled. The petitioner is now in custody since 04.02.2022. He is making prayer for grant of bail on the grounds that the material witnesses i.e. the victim, her mother and the complainant have since been examined. The trial is likely to take time, he has been extended benefit of regular bail in case bearing FIR No.140 registered at Police Station Arniwala and further on the ground that there are no chances of his absconding or tampering with the prosecution evidence. He also undertakes to abide by the terms and conditions to be imposed upon him for grant of regular bail.

6. It is argued by learned counsel for the petitioner that keeping in view the fact that initially on the same allegations as levelled in the FIR No.35, he had been extended benefit of bail, he deserves to be released on bail. The petitioner has placed on record copies of statements of the victim-prosecutrix, complainant and mother of the prosecutrix. A perusal of the same reveals that the prosecutrix has deposed in support of the case of the prosecution and has levelled specific allegations that the petitioner had been blackmailing her and by kidnapping her, had subjected her to aggravated

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penetrative sexual assault repeatedly. She is also shown to have deposed that after his release on bail, he had again started extending threats to her. No doubt, a period of about 3 years and 2 months has passed since the cancellation of bail of the petitioner and he is in custody since 04.02.2022. However, keeping in view the fact that he violated the terms and conditions of the bail, the benefit of which was previously extended to him, by criminally trespassing into the house of the uncle of the prosecutrix and causing injuries to his family members and himself coupled with the fact that the prosecutrix in her sworn deposition is shown to have supported the prosecution case, in the considered opinion of this Court, no sufficient ground has been made out for grant of bail to the petitioner. The allegations against him are quite serious in nature. The trial is going at a proper pace since material witnesses have been examined and there is nothing on record to show that there would be any undue delay in conclusion of the same. Considering the above discuss facts, I am of the considered opinion that the petitioner does not deserve to be extended benefit of bail. Accordingly, the petition is dismissed.

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

13.12.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No