



CRM-M-35657-2024

-1-

294 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-35657-2024
Date of decision: 13th August, 2024

Sandeep Singh
...Petitioner(s)
Versus
State of Punjab
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Davinder Singh Khurana, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The instant one is the third petition for grant of regular bail as filed by the petitioner in case arising out of FIR No. 14 dated 15.03.2022 initially registered under Sections 363 and 366-A of IPC, 1860 with offences under Section 376 of IPC and Section 4 of POCSO Act having been added later on, at Police Station Kabirpur, District Kapurthala.

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 statement recorded by the complainant who is mother of the prosecutrix (names withheld) alleging therein that on 15.03.2022, the victim had gone to attend school but did not return. The complainant suspected that the victim had been kidnapped by the accused Prabhjot Singh. On the same night, the prosecutrix along with her mother reached at the police station and disclosed



that accused Prabhjot Singh had intercepted her while she was on way to her house and had hit on her head with something and then by making her to sit in car and covering her face, he had taken her somewhere. She also disclosed that 2-3 youths unknown to her, with muffled faces were also present in the car.

3. As per the further allegations, the statement of the prosecutrix was recorded under Section 164 of Cr.P.C. on 16.03.2022. Her medical examination was conducted. On 01.04.2022, she recorded a supplementary statement alleging that the accused Prabhjot had committed rape upon her on the fateful day. She also disclosed the names of the petitioner and co-accused Harpreet Singh @ Happy as the persons who were accompanying the accused Prabhjot and also stated that the petitioner was driving the car at the relevant time. The petitioner surrendered on 09.04.2022. Offences under Section 376 of IPC and Section 4 of POCSO Act were added during the course of investigation. The co-accused were also arrested. The co-accused Harpreet Singh was found to be a juvenile. After completion of investigation, challan has been presented before the trial Court and the petitioner is facing trial. He had previously moved petition for grant of bail before this Court which was dismissed vide order dated 27.02.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he is in custody 09.04.2022. The victim was having an affair with accused Prabhjot Singh and had voluntarily gone with him. Even in her statement recorded under Section 164 of Cr.P.C., she had admitted this fact. There was no allegation against the petitioner that



he had committed rape upon her. DNA report has been received, as per which, no human semen was detected on the vaginal swabs or clothing of the victim. The trial is likely to take time. The extended period of incarceration and the FSL report are sufficient to justify his release on bail. Therefore, it is urged that the petition filed by him deserves to be allowed.

4. Status report has been filed by the respondent-State. It is argued by learned State counsel that there is no change in the circumstances and no new ground has been made out thereby making the petitioner entitled for concession of bail. It is also argued that a substantial number of prosecution witnesses including the prosecutrix and claimant already stand examined. The trial might be expedited even more. Therefore, it is argued that the petition does not deserve to be allowed.

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. The previous petition for grant of bail as filed by the petitioner, was dismissed by observing that in her sworn deposition, the prosecutrix had stated that the present petitioner along with the co-accused had committed rape upon her and further by observing that even if, it was assumed that the petitioner had not subjected the victim to act of penetrative sexual assault as she had not stated so in her initially recorded statement, still the facilitation on his part to the co-accused to ravish the victim could not be ruled out. The previous petition had not been dismissed only because of the reason that the FSL report was awaited. No doubt, as per the FSL report, no human semen



and male DNA has been detected on the vaginal swabs and clothing etc. of the victim, however, this fact coupled with the extended period of incarceration is not sufficient to assume any change in circumstances, having occurred after dismissal of the previous petition for bail as filed by the petitioner, and to extend benefit of bail to him. Allegations levelled against him are serious in nature. No ground for allowing the petition has been made out. Hence, the same 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.
8. Since the main petition has been dismissed pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

13th August, 2024
Parveen Sharma

1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No