

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-2085-2023 (O&M)
Date of decision : 25.04.2024

Chitraksh ... Appellant(s)
Versus
State of Haryana and Another ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sunny Tyagi, Advocate for the appellant.
Mr. Saurabh Girdhar, AAG Haryana for respondent No.1.
Mr. Rajesh Duhan, Advocate and
Ms. Gurmeet Kaur, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

1. This is an appeal filed by the appellant for setting aside the impugned order dated 18.07.2023 passed by Additional Sessions Judge, Fast Track Court (POCSO) Panipat, whereby the application for grant of regular bail filed by the appellant in case FIR No.917 dated 05.12.2022 under Sections 201, 376(2)(n), 506 of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Old Industrial, Panipat has been dismissed.
2. Brief facts relevant to the case are that on 05.12.2022 the complainant i.e. mother of the victim came to the Police Station and presented an application stating therein that she had three children and that

one year ago the appellant herein entered into her house and after enticing her daughter took her to his house where he administered some intoxicating substance to the daughter and thereafter he committed a wrongful act with her and he also prepared videos and further threatened the daughter that if she disclosed anything to anyone, he would kill both her brothers and their dead bodies could not be identifiable. Her daughter, in order to save lives of her brothers and for the reputation of family, did not disclose anything and since about one year the appellant had been committing wrong acts with her. He further threatened her that if she opened her mouth, he would upload her videos on Internet, Facebook and WhatsApp and would defame the family. On 05.12.2022 at about 08.30/9.00 am the appellant entered the house with the intention to do a wrong act with her daughter and when her daughter raised her voice as *bachao-bachao* the appellant herein ran away. At that time she is stated to have gone out for some work and when she heard noise the appellant had run away and her daughter disclosed to her about wrong acts and videos. It was further the case set up that when she went with her daughter to the house of the appellant, he threatened to kill her. It was further the allegation in the FIR and that when she came back home with her daughter, the appellant came to their house alongwith weapons and gave beatings to her husband and her daughter and used caste related derogatory words. On the basis of the said complaint, the FIR was lodged. Initially the victim refused to get herself medically examined. Later the medical examination was done after two weeks. Offence under Section 328 IPC was

deleted and Section 201 IPC was added. In her statement recorded under Section 164 CrPC there were no allegations of rape made by the victim. However, the case has fully been supported by the victim while appearing in Court.

3. Learned counsel for the appellant would contend that a totally false case has been planted on the appellant and the appellant has already been in custody for a period of 01 year 02 months and 05 days. It is further the contention of the learned counsel that it was the specific case of the victim that certain videos were taken which were sent to her on WhatsApp by the appellant, however, the same have not been produced by the victim. It is further the contention of the learned counsel that though it has been alleged in the FIR that the appellant with others had gone to the house of the victim and given beatings to the father and the victim, however, there is no medical in support of the same.

4. Per contra, the learned counsel for the State has filed the custody certificate in Court today which is taken on record and as per the certificate the appellant has been in custody for a period of 01 year 02 months and 05 days. The learned counsel for respondent No.1-State and complainant-respondent No.2 would contend that there are serious allegations of rape and that it was a continuing offence and that the victim was 16 years of age at the time of the incident. Learned counsel for the State has contended that out of 14 witnesses, 9 have been examined. The learned counsel for respondent No.1-State as well as for complainant-respondent

No.2 are not in a position to deny the fact that initially the victim had refused to get herself medically examined and it was only subsequently that she was examined after a period of two weeks.

5. I have heard the learned counsel for the parties.

6. In the present case out of 14 witnesses 9 have been examined and all material witnesses stand examined. The victim had not made any allegations of rape in her statement recorded under Section 164 CrPC. Further, though allegations of beatings have been made in the FIR, however, the same are not supported by any medical evidence which has come on the record. Further still, the appellant has been in custody for a period of 01 year 02 months and 05 days as per the custody certificate. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the appellant behind the bars any further.

7. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the appellant. Accordingly, the impugned order dated 18.07.2023 is set aside and the appellant is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

8. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the appellant is found to be misusing the concession of bail in any manner.

9. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.
10. Disposed off. Pending applications, if any, also stand disposed off.

25.04.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO