

CRA-S-2556-2023 (O&M)

2024:PHHC:065387

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

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CRA-S-2556-2023 (O&M)

Date of decision: 09.05.2024

**RAHUL ALIAS MANPREET
Versus**

...Appellant

STATE OF HARYANA AND ANR

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. Wazir Singh, Advocate
for the appellant.

Mr. Kirpal Singh Thakur, AAG, Haryana.

HARPREET KAUR JEEWAN, J.

CRM-11382-2024

Allowed as prayed for.

Main case

1. Challenge in the present appeal is to the order dated 12.04.2023 passed by the learned Additional Sessions Judge, Kurukshetra vide which application for grant of regular bail in FIR No.758 dated 29.11.2022 under Sections 354-D, 376, 506 IPC (later on added Section 3 of the Schedule Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment 2015) at Police Station Krishna Gate, Thanesar, District Kurukshetra was dismissed and seeking regular bail in the present appeal.
2. Custody certificate dated 07.05.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the appellant has undergone 01 year 04 months and 08 days of actual custody.
3. As per the prosecution case, the present FIR was registered at the

instance of the prosecutrix-respondent No.2. As per the FIR, the appellant was working in a hotel and he had been chasing the prosecutrix since long time. On the day of the alleged occurrence, the appellant called the prosecutrix in a hotel for a conversation. When the prosecutrix reached there, the appellant bolted the room from inside and thereafter committed penetrative sexual assault upon the prosecutrix. The matter was reported to the police and the present FIR was registered.

4. Learned Additional Sessions Judge, Kurukshetra has dismissed the bail application of the appellant by observing that the allegations levelled by the victim, who is unmarried are that she has been forcibly subjected to sexual intercourse by the accused against her will and consent. Moreso, the accused, who is a married person has apparently committed very serious offence in the eyes of law.

5. Learned counsel for the appellant *inter alia* contends that the appellant has been falsely implicated in this case and is in custody since 29.12.2022. Even as per CCTV footage record, the prosecutrix is herself seen coming to the hotel without any pressure. He submits that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. The trial is going to take time to conclude, as such, prayer for releasing the appellant on bail has been made.

6. On the other hand, learned State counsel on instructions from concerned Investigating Officer has informed that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. As per custody certificate, there is no history of other cases against the appellant. He has produced copy of FSL report dated 30.11.2023, as per which the DNA

profile obtained from the clothes of the prosecutrix does not match with the DNA profile obtained from the blood samples of the appellant. He has further informed that the prosecutrix did not appear before the trial Court despite bailable warrants were issued to her.

7. Notice in the appeal was issued to respondent No. and despite service none has put in appearance on behalf of respondent No.2.

8. I have considered the aforesaid contentions. Investigation is complete and the final report under Section 173 of the Code of Criminal Procedure has been presented before the trial Court. The appellant is in custody since 29.12.2022 as an under-trial. There are total 14 witnesses, out of which none has been recorded so far, as such conclusion of the trial will take time. There is no apprehension absconding of the appellant. As per custody certificate, there is no history of other cases against the appellant.

9. In view of the above, the appeal is allowed. The impugned order dated 12.04.2023 passed by the learned Additional Sessions Judge, Kurukshetra is set aside. The appellant is ordered to be released on regular bail, subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

10. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

11. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

09.05.2024
P.Bhatt

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No