



CRA-S-3056-2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(103+204)

CRA-S-3056-2024 (O&M)
Date of decision:- 04.11.2024

Aslam alias Rehan ... Appellant
Versus
State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vaibhav Parashar, Advocate
for the applicant-appellant.

Mr. Aman Bahri, Addl. A.G., Haryana
for the State-respondent No.1.

SUVIR SEHGAL, J. (ORAL)

CRM-42503-2024

- 1. Application is allowed, as prayed for.
- 2. Annexures P-5 and P-6 are taken on record.

Main case

- 3. This is the third time, appellant is approaching this Court seeking grant of regular bail in:-

FIR No.	Dated	Police Station	Sections
0033	05.03.2022	Women Police Station, Ballabgarh, District Fairdabad	363 and 506 IPC, Sections 8 and 17 of the POCSO Act and Section 3 of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act, 1989

- 4. Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of ‘K’, (name withheld, hereinafter referred to

**CRA-S-3056-2024 (O&M)****-2-**

as “the prosecutrix”), aged 15 years, wherein she stated that she is a student of 9th class and one, Aslam @ Rehan (present appellant), who lives in the adjoining house, has been troubling her. In January, he came to the terrace, hugged her and tried to forcibly kiss her. On hearing her screams, her mother came and confronted the appellant’s family, who assured that such an incident will not be repeated. Appellant did not desist from the objectionable activity and has been tormenting her on her way to school. He forced her to sit on his motorcycle and took her to his shop at Ballabgarh Bus Stand, from where he forced her to accompany him on metro to New Delhi and they returned at 03:00 P.M. He fled when he spotted her uncle and parents.

5. Counsel for the appellant urges that the appellant has been falsely implicated due to an animosity between the families, who are neighbours. By referring to the testimony of the prosecutrix and her mother, Annexures P-2 and P-3, respectively, he urges that both the material witnesses have not supported the case of the prosecution and have deposed that the alleged incidents never took place. He contends that no allegation has been levelled against the appellant attracting offence under the SC & ST Act. He submits that as the material prosecution witnesses have been examined and the appellant is in custody since 11.03.2022, he deserves to be enlarged on bail.

6. *Per contra*, Mr. Aman Bahri, learned Additional Advocate General, Haryana has opposed the appeal by making a reference to Section 29 of the POCSO Act to assert that the statutory presumption is against the appellant and the onus is on him to prove his innocence. He has also made a

**CRA-S-3056-2024 (O&M)****-3-**

reference to the MLR to submit that the narration given by the minor prosecutrix to the doctor is on the same lines as the allegations levelled in the FIR. Upon specific instructions, State counsel submits that 6 out of 23 prosecution witnesses have been examined.

7. I have heard counsel for the parties and considered their respective submissions.

8. As per Custody Certificate dated 13.10.2024, appellant has been in detention for the last more than 31 months. Both the prosecutrix and her mother, who were the only vital witnesses, have testified and have not supported the case of the prosecution. Appellant is not involved in any other criminal case. Noticing the length of detention, nature of allegations levelled against the appellant, stage of trial and his clean antecedents, this Court has no hesitation in accepting the prayer made in the appeal.

9. Without examining the merits or demerits of the arguments addressed by counsel for the parties, appeal is allowed. Impugned order dated 13.03.2024 is hereby set aside. Appellant is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate/Trial Court concerned.

10. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

04.11.2024

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No