



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRA-S No.2628 of 2023
Date of decision: 09.05.2024

Vikram ... Appellant

Vs.

State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Vikas Bishnoi, Advocate,
for the appellant.

Mr. Arjun Lakhanpal, Addl. AG, Haryana.

Mr. Satbir Singh Gill, Advocate,
for respondent No.2.

MANISHA BATRA, J.

1. The present appeal has been filed by the appellant challenging the order dated 16.08.2023 as passed by learned Additional Sessions Judge, Sirsa in bail application arising out of FIR No.100 under Sections 341, 354, 354-D/34 of IPC, Sections 10 and 12 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”) and Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (For short “Act, 1989”) at Police Station Ding, District Sirsa, whereby an application for grant of regular bail as filed by the appellant had been dismissed.

2. Brief facts of the case relevant for the purpose of disposal of

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the present appeal are that the aforementioned FIR was registered on 08.05.2023 on the basis of statement recorded by the complainant “S” (name withheld) alleging therein that she along with victim “K” (name withheld) who was her cousin sister were studying in the local Government school. The victim is a specially abled girl aged 14 years who is unable to speak and hear. While both of them were on the way to school, they were intercepted by the present appellant and co-accused Amit who came riding on a bike. Accused Amit after stopping his bike in front of them, pulled the victim towards her and caught her with waist. She tried to rescue her and then both the appellant and co-accused started hurling abuses to both of them in the name of their caste. She raised alarm and thereafter both of them fled away. She reached the school and told the Principal about the entire incident who informed that parents who took them to the Police Station. After registration of FIR, investigation proceedings were initiated. The present appellant was arrested on 08.06.2023. The statement of the complainant under Section 164 of Cr.P.C. was recorded. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the appellant along with the co-accused are facing trial for commission of the aforementioned offences. He had moved an application for grant of regular bail before the learned trial Court which was dismissed vide the impugned order dated 16.08.2023.

3. It is submitted by learned counsel for the appellant that the impugned order is not sustainable in the eyes of law and is liable to be set

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aside due to the reason that the appellant has been falsely implicated in this case. No specific overt act had been attributed to him. There is no allegation against him that either he had molested the victim or the complainant or had made any sexual overture or had sexually harassed the victim or the complainant in either manner. The complainant has already been examined. There are no chances of his intimidating the witnesses. No useful purpose would be served by keeping him in custody. While passing the impugned order, the learned trial Court did not take all these circumstances into consideration. With these broad submissions, it is argued that the impugned order is liable to be set aside and the appeal filed by the appellant deserves to be accepted.

4. Status report has been filed by the respondent-State in this case, as per which, the allegations against the appellant were found to be true during investigation. Learned State counsel assisted by learned counsel for respondent No.2 has argued that the appellant had criminal antecedents as he was involved in two more criminal cases. There were chances of his committing similar offence if extended benefit of bail. Therefore, it is argued that the learned trial Court had rightly dismissed his plea for grant of bail and it is urged that the appeal does not deserve to be allowed.

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

6. The appellant has placed on record copy of statement recorded by the complainant while appearing before the trial Court as PW-1 and a

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perusal of the same reveals that she has corroborated the version as given in the complaint lodged by her. Copy of her statement recorded under Section 164 of Cr.P.C. has also been annexed along with the status report by the respondent-State which shows that she had reiterated the same allegations which were levelled by her in the FIR lodged by her. The appellant, however, is in custody in this case since 08.06.2023. The statement of the complainant who was the main witness of this case already stands recorded. The trial is likely to take time. No useful purpose would be served by keeping the appellant in custody any more. Taking into consideration the nature of the allegations as levelled against the appellant, the period of his incarceration, the quantum of sentence which the conviction may entail and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that the appeal deserves to be allowed. Accordingly, the same is allowed and the impugned order dated 16.08.2023 is set aside and the appellant is ordered to be released on bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

(MANISHA BATRA)
JUDGE

09.05.2024
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No