

2024:PHHC:029984
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CRM-M-48227-2023(O&M)
Date of decision :28.02.2024

...Petitioner

State of Haryana

...Respondent

Present: Mr. S.K. Panday, Advocate
for the petitioner.

Ms. Nidhi Garg, AAG, Haryana.

MANISHA BATRA, J. (ORAL)

1. The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
207	11.05.2022	Sadar Taura, District Nuh	363, 366-A, 376-D and 506 of IPC, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012

2. Brief facts of the case relevant for the purpose of the disposal of this petition are that the abovementioned FIR was registered on the basis of the statement recorded by the prosecutrix 'F' (name withheld) who while claiming herself to be 16 years old recorded her statement that on 10.05.2022 at about 3.00 P.M., she was going towards fields when the accused Saad son of Bilal and Tofiq son of Juhar Khan reached there in an Apache bike. They intercepted

her by catching her and forced her to sit on their motorcycle. She was taken to some distance where a car was lying parked. She was pushed into the said car and then the above-named persons as well as four more persons threatened her and committed raped upon her one by one. They also made videos and took her vulgar photographs and extended threats to face dire consequences, if she informed about the incident to any one. They dropped her near bus stand Sohna at night.

3. After registration of FIR, investigation proceedings were conducted and the victim was medically examined and her statement under Section 164 Cr.P.C was also got recorded on 12.05.2022, wherein she reiterated the allegations in the FIR and stated that apart from the accused, namely, Saad, Tofiq, Irshad, Asif and two more persons, who were not known to her, had also ravished her. During investigation, the present petitioner had been arrested on 21.05.2022. After he was identified by the victim, he was also medically examined. After completion of investigation and usual formalities, challan under Section 173 Cr.P.C was presented in the Court and presently, he is facing trial for commission of the aforementioned offences. The co-accused could not be arrested by the prosecution till date.

4. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. He is in custody for a period of about two years. The trial is likely to take time. The victim has not been examined so far. The co-accused have also not been arrested. Therefore, no useful purpose would be served by keeping him in custody. Therefore, it is argued that he deserves to be given concession of bail.

5. Status report has been filed by the respondent-State, as per which, during the course of investigation, two persons, namely, Zakir and Jitender were joined into investigation and the name of the present petitioner as the one of the persons, who had committed rape upon the victim had come to be known as the vehicle in which the victim had been taken was got repaired by the above named Zakir and Jitender. It is submitted that there are serious allegations against the petitioner. There are chances of his intimidating the victim and hence, it is argued that the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

7. As per the allegations, the victim was kidnapped on 11.05.2022 by the co-accused and was taken elsewhere, wherein the present petitioner alongwith another co-accused had joined and all of them had committed the act of aggravated penetrative sexual assault upon the prosecutrix, who is a minor, aged about 17 years. There are serious allegations against the petitioner. The victim is yet to be examined. A reasonable apprehension has been expressed that the petitioner may intimidate the material witnesses, if extended benefit of bail. The period of custody is not the ground to extend the benefit of bail to the petitioner.

8. Keeping in view the gravity of offences alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that the petitioner does not deserve to be given concession of

regular bail. Hence, the petition stands dismissed.

9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

28.02.2024

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Whether speaking/reasoned :
Whether Reportable :

Yes
Yes

(MANISHA BATRA)
JUDGE

No
No