

Neutral Citation No. 2024:PHHC: 073705

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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

283

CRM-M-47204-2023 (O&M)  
Date of decision: 23.05.2024

Bittu @ Aman

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Baljeet Beniwal, Advocate  
For the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed by the petitioner under Section 439 Cr.P.C., is for grant of regular bail in case bearing FIR No. 181 dated 25.05.2023, registered under Sections 363, 366-A of IPC (Section 376AB of IPC and Section 6 of the POCSO Act, 2012 were added later on) at Police Station Bawal, District Rewari.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint filed by the complainant 'S' (*name withheld*) on 25.05.2023 alleging therein that the victim 'L' (*name withheld*), who was his 13 years' old daughter, studying in an Govt. School at Bawal in 5<sup>th</sup> Class, had gone to

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attend the school in the morning of 24.05.2023 but did not return home. He made search for her but could not find her. Then he received a call from the mother of accused Sagar that her son had taken away the victim and both of them have been caught in Delhi. The complainant alleged that his daughter had been enticed away by accused Sagar, who used to live in his neighbourhood in a rented house and had left that house about one month ago. Initially, a case under Section 363 and 366 of IPC was registered. Investigation proceedings were initiated. The victim was lodged in *Kilkari* Home at Delhi. On completing the formalities, her custody was taken. She was produced before the concerned Judicial Magistrate and her statement was recorded under Section 164 of Cr.P.C., wherein she stated that she had gone with accused Sagar to Rewari on 24.05.2023 and then they had gone to Delhi. She also claimed that accused Sagar was her friend and that sexual relation was develop between them during the period, when she was with him. Consequently, offence under Section 6 of the POCSO Act was added. The victim was got medically examined and at that time, she disclosed that she was sexually assaulted by accused Sagar, and also gave history of being subjected to sexual intercourse for 5-6 times by the present petitioner in the year 2021. Her statement under Section 161 of Cr.P.C. was also recorded. The petitioner was arrested on 30.05.2023. He was also got medically examined. Offence under Section 376AB of IPC was also added. Co-accused Sagar could not be arrested. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for commission of aforesaid mentioned offences. He had moved an application before the trial Court for

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grant of regular bail but the same had been dismissed, vide order dated 22.08.2023.

3. It is argued by learned counsel for the petitioner that the petitioner was neither named in the FIR nor in the statement recorded by the victim under Section 164 of Cr.P.C. and was falsely implicated in this on the basis of the history allegedly narrated by her at the time of her medical examination that the petitioner had sexually assaulted her 4-5 times in the year 2021. No FIR had been registered against the petitioner at any point of time after the alleged acts, which were committed by him against the victim in the year 2021. There was no medical evidence on record to connect him with the subject offence. The petitioner has been falsely implicated in this case at the behest of the father of the victim. He is in custody since 30.05.2023. Trial is likely to take time. There are no chances of his intimidating the witnesses or absconding, if extended benefit of bail. The allegations against him are vague in nature as in her partly recorded statement before the trial Court, the victim had simply stated that the petitioner had repeatedly committed rape upon her without giving details of date, month and year, when she had been subjected to rape. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the present petition deserves to be allowed.

4. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that the allegations against the petitioner are serious and specific in nature. The victim has been partly examined and she has mentioned the petitioner as the person, who had committed rape upon her. The statement of the victim is yet to be completed.

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There are chances of the petitioner's intimidating the victim, if extended benefit of bail. The fact that no medical evidence could be collected against the petitioner does not exonerate him of the allegations as levelled against him since the incident was two years' old and the victim, being of tender age, could not muster courage to disclose about the same earlier. Hence, it is argued that the petition is liable to be dismissed.

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

6. It emerges from the record that the victim, who was about 13 years' old on the date of lodging of FIR, had been induced and enticed away by accused Sagar, who has still not been arrested and is at large. However, the victim, who was recovered on 26.05.2023 was got medically examined on the same date, had disclosed before the Medical Officer that she had been repeatedly ravished by the petitioner two years back. She had reiterated the same allegations in her statement recorded under Section 161 of Cr.P.C. Learned counsel for the petitioner has placed on record partly recorded statement of the victim before the trial Court and a perusal of the same reveals that she has specifically stated that the petitioner too had committed rape repeatedly upon her. Her further examination has been deferred due to want of case property and FSL report. It is well settled proposition of law that the delay in cases of sexual assaults is not of much relevance. Keeping in view the gravity of offences alleged to have been committed by the petitioner, the fact that examination of the victim is yet to be completed, 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

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given concession of regular bail at this stage. Hence, the petition stands dismissed.

7. 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.

23.05.2024  
*Waseem Ansari*

(MANISHA BATRA)  
JUDGE

|                                  |            |
|----------------------------------|------------|
| <i>Whether speaking/reasoned</i> | <i>Yes</i> |
| <i>Whether reportable</i>        | <i>Yes</i> |