

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

299

CRM-M-47981-2023 (O&M)
Date of decision: 10.04.2024

SACHIN

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. Vikas Bishnoi, Advocate
for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

HARPREET KAUR JEEWAN, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.164 dated 02.05.2022 (Annexure P-1) under Sections 363, 366-A of the IPC (Sections 376(2)(n) IPC and Section 6 of the POCSO Act, 2012 have been added during the investigation), registered at Police Station Agroha, District Hisar.
2. Custody certificate dated 09.04.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the petitioner has undergone 01 year 05 months and 12 days of actual custody.
3. It is an allegation against the petitioner that he has committed aggravated penetrative sexual assault upon the minor victim and has also repeatedly committed rape upon her.

4. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and is in custody since 15.10.2022. He further contends that as per the statement of the prosecutrix recorded under Section 164 Cr.P.C. (Annexure P-2), she had stated that she had gone with the petitioner with her own will and there is no fault of the petitioner. The statement of the prosecutrix had already been recorded during the trial and she had admitted the love relationship in her cross-examination. He submits that the trial is going to take time to conclude, as such, prayer for releasing the petitioner on bail has been made.

5. Status report by way of an affidavit of Sajjan Kumar, HPS, Deputy Superintendent of Police, Law and Order, Hisar along with copy of recovery memo, birth certificate of the prosecutrix, statement recorded under Section 164 Cr.P.C., disclosure statement of the petitioner, medico-legal examination of the petitioner, ultrasound report, FSL report, custody certificate have been filed on behalf of respondent-State, which are taken on record.

6. On the other hand, learned State counsel on instructions from concerned Investigating Officer opposes the bail on the ground of gravity of allegations levelled against the petitioner. As per the custody certificate, the petitioner is in custody for 01 year 05 months and 12 days.

7. As per the paper-book, the matter was reported to the police by the grand-father of the prosecutrix on 02.05.2022 regarding missing of the prosecutrix from her home. The prosecutrix was recovered after about more than 05 months on 12.10.2022. The date of birth of the prosecutrix is 09.08.2005 as per the birth certificate issued by the Registrar (Birth and Death) (Annexure R-2). The age of the prosecutrix was about 16 years and 6 months on the date of the alleged

occurrence. Though the prosecutrix had initially stated in her statement recorded under Section 164 Cr.P.C that she had gone with her own will and she does not want to take any action against the petitioner but during the course of the investigation, ultra sound of the prosecutrix was conducted in Maharaja Agrasen District Civil Hospital, Hisar on 22.10.2022 (Annexure R-6), as per which, a single live foetus with maturity of 15 weeks and 04 days was found. Thereafter, a medicine was administered for termination of the pregnancy with the consent of the guardian of the victim and foetus was aborted on 24.10.2022.

8. As per the statement of the prosecutrix recorded during the trial, the prosecutrix had alleged that on 01.05.2022, the petitioner had enticed her away and took her to Gujarat and she was kept in a room, where he used to threaten her and had committed rape upon her many times. The petitioner also used to beat her and also threatened to kill her if she tried to escape. He had kept her there for 5 months and thereafter she became pregnant. The parents of the prosecutrix got initiated the proceedings and on 12.10.2022, the prosecutrix was recovered from village Shanti Dham, Gandhi Industry Area, Gujarat and she was brought to Police Station Agroha. The prosecutrix had also clarified in her statement recorded under Section 164 Cr.P.C that she was under pressure of the accused, who had threatened her not to disclose anything against him.

9. The allegations against the petitioner are serious in nature. Keeping in view the age of the prosecutrix and the fact that the child victim had been repeatedly sexually abused and even she got pregnant and there was medical termination of pregnancy of child victim, no ground is made out to release the petitioner on bail.

10. Consequently the present petition is dismissed.

11. However keeping in view the long period of custody of the petitioner, the trial Court is directed to expedite the trial.
12. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

10.04.2024
P.Bhatt

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