



CRM-M-48605-2024

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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Date of decision: 3rd October, 2024

Aman Gupta

...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):-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 38 dated 09.03.2023 registered under Sections 506 of IPC and and Section 4 and 8 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') at Police Station Women NIT Faridabad, District Faridabad. The previous petition bearing No. CRM-M-51771-2023 (O&M) had been dismissed by this Court vide order dated 25.01.2024.

2. The factual matrix of the case as given in brief is that the aforementioned FIR was lodged against the petitioner on the basis of a written complaint submitted by the victim 'K' (name withheld) alleging therein that she got acquainted with the petitioner 3-4 months prior to her

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lodging of the FIR and had been conversing with him on phone. She had gone to his house about 1½ months back on his insistence, where the petitioner by saying that he would perform marriage with her, had forcibly committed rape upon her. After registration of FIR and recording statement of the victim under Section 164 of Cr.P.C., the petitioner was arrested on 14.03.2023. Presently, he is facing trial for commission of aforementioned offences. He had moved an application for grant of regular bail before this Court, which was dismissed vide order dated 25.01.2024 as already mentioned.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that after passing of order dated 25.01.2024 in CRM-M-51771-2023, there is substantial change in the circumstances as the sworn deposition of the prosecutrix has been recorded and a period of more than nine months has been elapsed. It is argued that since the material witnesses has been examined and due to extended period of incarceration coupled with the fact that the trial is likely to take long time as many witnesses are yet to be examined, it is urged that the petitioner deserves to be extended benefit of bail.

4. *Per contra*, learned State counsel who is having advance notice of the petition is ready to argue the matter, has submitted that in her sworn deposition, the victim has fully supported the version of the prosecution and has implicated the petitioner in the commission of act of committing rape upon her. The victim was a minor girl of fifteen years of age at the relevant

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time. The allegations against the petitioner are quite serious. Merely, because of the fact that he has spent some more time in custody after dismissal of his previous bail petition, he does not deserve to be extended benefit of bail. There is no substantial change in the circumstance entitling the petitioner for grant of bail. Therefore, it is urged that the petition does not deserve to be allowed.

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

6. As per the allegations, the petitioner had committed rape on the minor victim one and half months prior to the lodging of FIR. The victim has since been examined and the petitioner has also spent extended period of nine months in custody, however, due to that very reason, he could not be considered to have become entitled to be released on bail. It is well settled proposition of law that gravity of the allegations and severity of the punishment are important factors to be taken into consideration while deciding applications/petitions for grant of bail. Keeping in view the nature of the allegations as levelled against the petitioner coupled with the fact that no substantial change in the circumstances from the date of dismissal of the previous petition has been made out and that there is nothing on record to show that there would be any undue delay in conclusion of the trial, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.



7. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

3rd October, 2024

Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |