

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

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CRM-M-52821-2023 (O&M)
Date of decision: 07.03.2024

Manmehakpreet Singh @ Mehaku ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Deeapk Kumar Bartia, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 90 dated 01.07.2022, registered under Section 376 of IPC and Section 6 of the POCSO Act, 2012 [Section 376(2)(n) of IPC was added later on] at Police Station Daresi, District Ludhiana.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 01.07.2022 on the basis of statement recorded by complainant 'V' (*name withheld*), alleging therein that the victim 'A' (*name withheld*) was her grand-daughter living with her as her parents were divorced. She was studying in 11th Class. On 26.06.2022, she had gone to visit the house of her paternal aunt (*Bua*) 'M' (*name withheld*) in Ludhiana itself, wherein they resided. In the evening of 27.06.2022, the victim had gone away from the house of her aunt in a car. They had searched for her but could not find her. She further stated that on 30.06.2022, the victim made a telephonic call to her from the phone of some

other person, thereby informing her that she was present at Bus Stand, Ludhiana. She along with her husband had rushed towards the bus stand and taken the victim back to their house. She was frightened and on asking, she disclosed that she had come into contact with the present petitioner in the year 2019 through social media Tik Tok App. On 27.06.2022, the petitioner had called her and had asked to meet her as he was in Ludhiana and when she had gone outside the house of her paternal aunt to meet him, he had forcibly taken her in his car to some place, where rape was committed by him twice upon her against her wishes and consent. She alleged that on 28.06.2022, the petitioner had taken her to his own village and then she was taken to the house of his sister. On 29.06.2022 at about 12.00 PM, the sister of the petitioner had dropped her at Bus Stand, Moga and she was made to sit in a bus for Ludhiana, where she had reached at about 11:00 PM. Her medical examination was conducted. Her statement under Section 164 Cr.P.C. was also recorded, wherein the same allegations were reiterated. Investigation proceedings were initiated. The petitioner was arrested on 02.07.2022. He was also medically examined. After completion of necessary investigation proceedings and usual formalities, *Challan* under Section 173 Cr.P.C. was presented in Court and presently, the petitioner is facing trial for commission of aforementioned offences. He had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 06.05.2023.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by her counsel that he has been falsely implicated in this case. He is only a 20 years' old youth. He had come into contact with the victim through social media Tik Tok App in the year 2019

and they were in regular touch with each other by making calls and were having good friendship. The petitioner had never taken any undue advantage of their friendship. It is submitted that the victim herself had disclosed to him that the behaviour of her grandmother was not good towards her and on her instigation, her father used to beat her. It is also argued that the factum of friendship of the victim and the petitioner was in the knowledge of her father as he had seen the chats between them but the same was not acceptable to them and that is why, he has been falsely implicated in this case. He is in custody since 02.07.2023. The investigation has completed. Trial has commenced, which is likely to take time. No useful purpose would be served by keeping him in custody anymore. Therefore, he has argued that the present petition deserves to be allowed.

4. Status report has been filed by the respondent-State, wherein it is stated that the allegations as levelled against the petitioner were found to be true on conducting investigation in the matter. The prosecutrix has been examined and she has supported the same allegations. The petitioner had taken away a minor girl, aged about 16 ½ years, and had ravished her and, therefore, keeping in view the gravity of the offences as committed by him, he is not entitled to the concession of bail. With these broad submission, it is urged that the present 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. As per the allegations, the petitioner, who was having talking terms and friendly relations with the victim since the year 2019 through social media Tik Tok App, had taken her away from the house of her paternal aunt on the evening of 27.06.2022 and had ravished her twice. She was taken to

different places and was then dropped at the bus stand. Learned State counsel has placed on record a copy of the statement recorded by the prosecutrix before the learned trial Court and a perusal of the same reveals that she has supported the allegations as levelled in the FIR as well as recorded in her statement under Section 164 Cr.P.C. Though, as per FSL report, no semen was detected on the vaginal slide and swabs of the prosecutrix and, therefore, the DNA contribution of the petitioner could not be ascertained on the same, however, merely because of that reason, it cannot be presumed at this stage that the allegations levelled against the petitioner are false. The trial is going at a proper pace and there is nothing on record to show that there would be any undue delay in conclusion of the same. It is well settled law that the gravity of the offence is a prime consideration for extending/denying the benefit of bail to an accused. Since there are serious allegations against the petitioner, therefore, keeping in view the same, 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 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.

07.03.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No