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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-49480-2024
Date of decision: 4th December, 2024

Amit Malik

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sandeep Sharma, Advocate for the petitioner.

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

MANISHA BATRA, J (ORAL):-

This is the second petition for grant of regular bail in case arising out of FIR No. 360 dated 22.05.2023 registered under Section 305 of IPC and 10 of the POCSO Act, 2012 [Section 6 of the POCSO Act and Sections 376(3), 376(2)(n) of IPC added later on] at Police Station Chandni Bagh, Panipat, District Panipat.

2. The petitioner is facing trial for commission of the aforementioned offences on the allegations that the victim who was minor daughter of the complainant, used to take coaching classes for badminton from the petitioner. The petitioner being in capacity of a teacher and in the position of trust, misused such position and not only harassed the victim sexually but mentally as well to such an extent that the poor victim ended her own life on the night of 20/21.05.2023 by hanging herself in a room of

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her house. The details of the various acts which had been committed by the petitioner had been divulged by the second daughter of the complainant while recording her statement under Section 164 of Cr.P.C. The petitioner was arrested on 17.06.2023. He had filed petition for grant of regular bail bearing *CRM-M-54884-2023* before this Court which had been dismissed vide order dated 11.03.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He was not named in the initial statement recorded by the complainant before the police on 21.05.2023 and has been implicated subsequently. There is delay of fifteen days in recording the statement of sister of the victim. Her statement is based on a vague allegations without any specific mention of the date and place of the alleged acts of harassment done by the petitioner qua the victim. The entire prosecution story is tainted one. The mobile phone containing alleged conversations between the victim and himself had not been recovered. No suicide note had been left by the victim. There was also inordinate delay in lodging of the FIR. Trial is likely to take time. The extended period of custody is reasonable ground for extending benefit of bail to him. With these broad submissions, it is urged that the petitioner deserves to be released on bail.

4. *Per contra*, learned AAG, Haryana, has argued that the previous bail petition of the petitioner has been decided on merits. There is no substantive change in the circumstances from the date of dismissal of the said petition. There are serious allegations against the petitioner. Trial is



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going on at a fast pace and there is no likelihood of delay in conclusion of the same. 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. The previous petition for grant of bail as filed by the petitioner has been dismissed vide order dated 11.03.2024. The operative part of that order reads as under:-

“The allegations against the petitioner are quite serious in nature. He was giving coaching classes for badminton to the victim, who was a minor girl of tender age i.e. 15 years only. While being in the capacity of a teacher as well as a person in the position of trust, he misused his position and is alleged to have harassed the victim sexually as well as mentally to such an extent that the poor victim ended her own life. The possibility of a different cause for the suicide is not revealed at this stage from the material placed on record. Though, the question of mens rea on the part of the petitioner would be examined by the trial Court with reference to the actual acts and deeds of the petitioner on the basis of the evidence to be produced before it on record, however, the act and conduct of the petitioner, as narrated by the sister of the victim in her statement recorded under Section 164 Cr.P.C. and even after death of the victim when he coaxed the sister of the victim to give her mobile phone to him, shows that an active role had been played by him in drawing the victim to commit suicide, though the exact proximate link between the cause of suicide has to be determined on the basis of evidence produced before the trial Court. Keeping in view the nature of offences, specific allegations levelled against the petitioner that he had caused sexual as well as mental harassment to the victim



leading the victim to commit suicide, coupled with the fact that the material witnesses are yet to be examined, 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.”

7. It is well settled proposition of law that when successive bail applications come before the Court, the Court should be very cautious while considering the same. Successive bail applications can be entertained by the Court when some substantial change is established by the accused thereby making him entitled for grant of bail. Reference in this regard can be made to ***State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 Supreme Court, 2292***, wherein it was observed so and it was further held that the Court should not pass an order of release of an accused on bail in successive bail application merely establishing some cosmetic change between time gap of two applications. There must be some drastic change during the period between two applications. Reference can also be made to ***Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and another (2004) 7 SCC 528***, wherein it was observed by Hon’ble Supreme Court that where the offence alleged against an accused is grave, bail cannot be granted only on the ground of long incarceration.

8. After hearing the contentions as raised by learned counsel for the petitioner, I am of the considered opinion that in view of the position explained above, no substantial or drastic change from the date of dismissal of the previous petition as moved by the petitioner has been pointed out or made out



from the pleas taken by the petitioner. The trial is also going on at a good pace and there is nothing to show that there would be any undue delay in conclusion of the same. Keeping in view the nature and gravity of the offence, in my considered opinion, it is not a fit case to enlarge the petitioner on bail, especially in view of the fact that no drastic or material change in the circumstances has been made out. In view of the discussion as made above, but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

[MANISHA BATRA]
JUDGE

4th December, 2024
Parveen Sharma

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