

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-52734-2023
Date of decision: 12th January, 2024

Satish

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Aakash Dalal, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
77	13.03.2023	Beri, District Jhajjar, Haryana	376(2) (n), 506 of IPC, 1860 and Section 6 of POCSO Act, 2021

2. The above FIR had been registered on the basis of the statement recorded by the victim (named withheld), who is stated to be seventeen years old alleging that in the month of June-July, 2022, she along with her family members had gone to her native village Jahazgarh where she happened to meet one Ankit. Friendship had gradually been developed between them. One day when she was alone at home, the said Ankit had come to her house and physical relations were developed between them. She further disclosed

that now she was feeling pain in her abdomen and was taken to hospital by her father and it was revealed that she is pregnant. After registration of FIR, investigation proceedings were initiated. Medico legal examination of the victim was conducted and her statement under Section 164 Cr.P.C. was recorded, wherein she was found to be pregnant. During investigation, the victim recorded her supplementary statement on 22.05.2022 disclosing that the present petitioner, who is her brother-in-law in relation, had been ravishing her. The petitioner was arrested and his medico legal examination was also conducted. The victim subsequently delivered a dead child. The blood samples of all concerned had been sent for forensic examination. After completion of investigation and presentation of challan, the petitioner was arrested and is presently facing trial for commission of the aforementioned offences. He had moved an application for bail before the learned trial Court which has been dismissed vide order dated 25.07.2023.

3. The present petition has been filed by the petitioner on the grounds and it is argued by the counsel that he has been falsely implicated in this case. He was not named in the FIR. Rather it was one Ankit who had been named in the FIR. Even in her statement under Section 164 of Cr.P.C. were recorded, the victim had not named him. He was implicated later on falsely. The victim is not a minor. No incriminating evidence has come on record. The trial is likely to take time. No useful purpose would be served by keeping him in custody. Hence, it is argued that the petitioner deserves to be given concession of bail.

4. The petition has been contested by learned State counsel in

terms of the contents of the status report as filed by the State. It is submitted by him that there were serious and grave allegations against the petitioner. It was only out of fear that victim had not named him initially. The hostility of the witnesses was not a ground to extend benefit of bail to the petitioner. Therefore, he argued that the petitioner did not deserve to be allowed.

5. The petitioner who is real brother-in-law of the minor victim is alleged to have ravished her. Though, he was not named in the FIR but her name was taken by the victim in her supplementary statement. However, now while recording her sworn testimony before the trial Court, the victim is not shown to support the prosecution version and has rather exonerated the petitioner totally from the allegations which had been levelled against him. Not even this, her mother and sister who had appeared before the learned trial Court as PW-2 and PW-3 respectively, have also given a total go by to the prosecution case by saying that no wrong act whatsoever had been committed by the petitioner as against the victim. The petitioner is in custody since 09.06.2023. Trial is likely to take time. Keeping in view the nature of the evidence that has come on record, the period of incarceration of the petitioner and the attendant facts and circumstances, I am of the considered opinion that the petition deserves to be allowed. Hence, the petition is allowed, the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

6. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

7. Since the main petition has been disposed of, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

12th January, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No