



CRM-M-51960-2024

-1-

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

290

CRM-M-51960-2024

Date of decision: 27th November, 2024

Parveen

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Harvinder Singh, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The instant one is the second petition for grant of regular bail as filed by the petitioner in case arising out of FIR No. 710 dated 27.07.2022 registered under Sections 363 and 366-A of IPC (Sections 376(2)(n) of IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') added later on) at Police Station Sadar Karnal, District Karnal. His first petition for seeking similar relief has been dismissed by this Court vide order dated 12.01.2024 passed in CRM-M-41759-2023.

2. Briefly stated, the petitioner is facing trial for commission of offences punishable under the aforementioned Sections, on the allegations that he had enticed away the victim, who was the minor daughter of the complainant on 27.07.2022 and had subjected her to repeated acts of aggravated penetrative sexual assault/rape. He is in custody since 06.09.2023.

**CRM-M-51960-2024****-2-**

3. It is argued by learned counsel for the petitioner that he is in custody for a period of over two years and two months. Trial is likely to take time. The prosecutrix in her statement recorded under Section 164 of Cr.P.C. stated that she had left her house at her own will and no allegation had been levelled by her against the petitioner. She already stands examined. Further detention of the petitioner is not going to serve any useful purpose. The petitioner was not aware that the victim was a minor at the time of the incident and it was on her insistence that he had accompanied her and gone with her to Gujarat. The extended period of incarceration is a sufficient ground for extending benefit of bail to him. Therefore, it is urged that he deserves to be released on bail.

4. Status report has been filed by respondent-State. Learned State counsel has argued that the consent of the minor victim even if any, was immaterial. Even otherwise, in her sworn deposition recorded before the Court, she deposed that she had been forced to leave her parental house by the petitioner and also levelled specific allegations that she had been repeatedly subjected to aggravated penetrative sexual assault by the petitioner. The first bail petition of the petitioner was dismissed. There is no substantive change in the circumstances. Mere period of custody is not a ground to extend benefit of bail to the petitioner. As such, it is argued 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.



CRM-M-51960-2024

-3-

6. 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.

7. After hearing the contentions as raised by learned counsel for the petitioner, I am of the considered opinion that 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. Merely the extended/prolonged period of incarceration is not a ground to extend any such benefit. 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 aforesaid facts and circumstances, in my considered opinion, it is not a fit case to enlarge the petitioner on bail,

CRM-M-51960-2024

-4-

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.

27th November, 2024

Parveen Sharma

1. Whether speaking/ reasoned

2. Whether reportable

[MANISHA BATRA]

JUDGE

:

:

Yes / No

Yes / No