



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

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**CRA-S-3075-2023 (O&M)
Date of decision: 24.07.2024**

DIPANSHU ALIAS DEEPANSHU KAUSHIK

...Appellant

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. Abhimanyu Singh, Advocate
for the appellant.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Mr. Amandeep Rana, Advocate
for the complainant (through video conferencing).

HARPREET KAUR JEEWAN, J.

1. The appellant has filed the present appeal raising a challenge against the impugned order dated 27.09.2023 passed by the learned Additional Sessions Judge, Gurugram, whereby the application for grant of regular bail moved by the appellant in FIR No.0344 dated 18.09.2022, under Section 6 of the POCSO Act, 2012, Sections 323, 342, 506, 363 IPC and Sections 3(2)(v) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Sector-5, Gurugram, District Gurugram has been dismissed.



2. Supplementary status report dated 18.07.2024 by way of an affidavit of Naveen Sharma, Assistant Commissioner of Police, Old, Gurugram along with copy of medical opinion and MLR (Annexure R-4) have been filed on behalf of the respondent-State.

3. As per the prosecution case, the victim aged about 16 years is alleged to have been allured by the appellant. The appellant had allegedly taken away the victim to Gurgaon village and repeatedly committed rape upon her and next day she was dropped back to her house. The victim disclosed about the incident to her mother and FIR was got registered.

4. Learned counsel for the appellant *inter alia* contends that the appellant has been falsely implicated in this case and he is in custody since 18.09.2022. He further contends that the statement of the prosecutrix has already been recorded. The trial Court has wrongly dismissed the application filed by the appellant for releasing him on regular bail. He submits that the prosecutrix had gone with the appellant with her free consent. There are total 24 prosecution witnesses out of which only 11 witnesses have been recorded as such, conclusion of trial is going to take time. The appellant is a young boy and he is not having any criminal antecedents. The appellant is ready to face the trial, as such prayer has been made to set aside the order 27.09.2023 passed by the learned Additional Sessions Judge, Gurugram and release the appellant on bail.

5. On the other hand, learned State counsel has opposed the appeal on the ground of serious allegations levelled against the appellant.

6. I have considered the aforesaid contentions and perused the paper-book.

7. As per the status report dated 12.01.2024 by way of an affidavit of



Satender Kumar, HPS, Assistant Commissioner of Police, Udyog, District Gurugram, the victim was hospitalized and discharged from the hospital on 22.09.2022. The victim had supported the prosecution version in her statement recorded under Section 164 Cr.P.C. The victim, who appeared as a witness (PW-1) during the trial (Annexure P-5) stated that without her consent, the appellant had committed raped upon her. The relevant portion reads as under:--

‘I was roaming in the street outside my home. In the meantime one boy namely Deepanshu Kaushik came on blue colour activa scooter and he told me that he want to talk to me for five minute and ask me to sit on his activa scooter. When I refused he made me scared that he would raise noise in front of my house and defame me in the society and would stop my studies. He also threatened to kill my brother. Due to fear I sat on his activa. When he was going I requested him to leave me at my home. Instead of leaving me at my home he gave a blow on my stomach. He took me at the isolated place and thereafter he beaten me there. He threatened me to kill my family and also said to behave normally otherwise the people would feel that I have been taken forcibly. He thereafter took me to the place which was a PG. He talk to one person who was present there and gave me a signal not to say anything to him. He holded my hand and took me up stairs. There was a room, he took me inside and locked the same. Thereafter he beaten me again and gagged my mouth. He tried to remove my t-shirt and thereafter he removed the same. He tied my mouth with the bed sheet. He removed my under garments. He laid me on the bed, he holded my hand tightly and thereafter repeatedly committed rape upon me from back. I started fainting as I was not in a position to take breath. When I felt consciousness I found that he was with me there in the room. I was feeling severe pain and was not in a position even to stand. I tried to trace out his phone to call someone but I could not get his phone. Since I was feeling pain. I went in the toilet and found that I was bleeding from the back side and feeling sever pain. I came outside. I was frightened. When I came outside I fell down then he got up and gave a bite on my body on neck, on my chest. He thereafter again committed rape upon me. He said that now he will leave me at my home. However, he did not take me at my house and took me at some park where he made one video.’

8. As per the Medico Legal Examination Report (Annexure P-2), the prosecutrix had given a detailed history, which is recorded in column No.18 of the



said report. As per the said report, anal swabs, cervical swabs and vaginal swabs were also taken and a reference was made for surgeon’s opinion.

9. As per the status report dated 18.07.2024, surgeon’s opinion had been advised on 19.09.2022 for the purpose of ascertaining the anal injury as there was bleeding per rectum. It is further mentioned in the status report that on 20.09.2022, the victim was examined by the surgeon and as per medical opinion report (Annexure R-4), on examination of the anal, “fissure” was found *prima facie* as such, the medical evidence corroborates the statement of the victim.

10. Keeping in view the age of the victim as 16 years; injuries inflicted upon her and the facts and circumstances on record, it is not a fit case to release the appellant on bail, as such the impugned order does not suffer from any illegality.

11. Consequently, the present appeal is dismissed.

12. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

13. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

24.07.2024
P.Bhatt

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No