

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

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CRM-M-56309-2022 (O&M)
Date of decision: 09.01.2024

Gurpej ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sehaj Sandhawalia, Advocate
for the petitioner.

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

MANISHA BATRA, J. (Oral)

1. This petition that has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 364 dated 23.06.2021, registered under Sections 341, 506 of the IPC; Sections 6 and 10 of the POCSO Act, 2012 and Section 67 of the Information Technology Act at Police Station Shahabad, District Kurukshetra.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of the statement recorded by the complainant/victim 'S' (*name withheld*) alleging therein that from the last four years, she was having friendship with the petitioner, who is residing in her neighbourhood. On one particular day, the petitioner had taken her to his house, where he had made physical relations with her and while doing so, a video recording of the act had been prepared by him without her knowledge. Subsequently, quarrels had started taking place between them. The matter had come to the knowledge of her family but to

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save her honour, she had entered into a compromise. She further alleged that thereafter, she had stopped talking to the petitioner but he had started extending threats to her and defaming her. On one particular day, he sent a video containing some objectionable recording to her brother and then to her female friends. He had performed marriage with someone about one month back but she was still being harassed at his hands. After registration of the FIR, investigation proceedings were initiated. The petitioner was arrested on 23.06.2021. After completion of investigation 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 01.08.2022.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. He is in custody since 23.06.2021. In fact, a consensual relationship existed between the parties since long. There was delay of 3-4 years in lodging of FIR after the alleged incident of her being raped by the petitioner. There was no material on record to show that the petitioner had sent any obscene video to the family of friends of the victim. The statement recorded by her before the Court itself showed that it was not a case of rape but a consensual relationship between them. The trial is likely to take some 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. Learned State counsel has resisted the petition in terms of the status report. He has argued that there are serious allegations against the

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petitioner. He had uploaded the obscene photographs and videos of the victim and had sent the same to her family and friends. The victim, who was a minor girl aged 16 years, had been ravished by him. In her sworn statement as recorded before the Court, she has fully supported the prosecution version. The trial is likely to be concluded within reasonable time. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record.

6. The petitioner is alleged to have subjected the victim, who was a 16 years old girl at the relevant time, to the act of aggravated penetrative sexual assault/rape and is further alleged to have prepared her obscene photographs/videos and as per allegations, he had circulated the same to the family and friends of the victim, thereby defaming her. The trial is going on a proper pace as reflected from the status report. The gravity of allegations as levelled against the petitioner is one of the prime consideration for considering the question as to whether he deserves to be extended benefit of regular bail or not and keeping in view the nature of the same, coupled with 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.

09.01.2024

(MANISHA BATRA)
JUDGE

Waseem Ansari

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