

CRM-M-54447-2023
Date of decision: 16th January, 2024

...Respondent(s)

seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
36	13.04.2023	Women Jind, District Jind	342, 354, 376(3), 506 of IPC and Sections 10, 6 of POCSO Act, 2012 (section 376(2) (n) IPC as added later on and Section 17 of POCSO Act deleted later on)

2. Brief facts relevant for the purpose of disposal of this petition are that on 13.04.2023, the victim (name withheld) accompanied with her grand mother reached police station and recorded her statement to the effect that on 08.03.2023 at around 3:00 PM, the petitioner who is her neighbour took her inside his house and after closing the door of the house, he had taken of her pajama and committed rape upon her. She also narrated that

even thereafter, she was ravished by the petitioner 3-4 times and once wrong act had been committed upon her in the presence of the wife of the petitioner. On the basis of her statement and after registration of FIR, investigation proceedings were initiated. Medico legal examination of the victim was got conducted. Her statement under 164 of Cr.P.C. was recorded wherein she reiterated the same version. The petitioner was apprehended on 14.04.2023 and was joined into investigation. He suffered disclosure statement admitting his involvement in the crime of committing rape upon the victim repeatedly and also demarcated the place wherein she was ravished for the first time. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner is facing trial for the aforementioned offences.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that there is unexplained and inordinate delay of thirty-five days in lodging of the FIR. No external marks of injuries were found on the body of the victim. No semen was detected on her person. The petitioner has been falsely implicated due to the fact that the father of the victim is in jail and his family suspects that the petitioner had a hand in sending him therein. The prosecutrix has made material improvements in her statement. It is also submitted that the trial is likely to take time. No useful purpose would be served by keeping him in custody anymore and accordingly, it is urged that the petitioner deserves to be extended benefit of bail.

4. On the other hand, the learned State counsel has resisted the

prayer made by the petitioner in terms of the status report. He has argued that though no semen could be detected on the clothing of the victim but the mother of the victim as well as two eye-witnesses who had seen the victim while going outside the house of the petitioner on 05.03.2023 have supported the version of the prosecution proving that the petitioner had committed rape upon the victim who is a minor girl of despite being of low intellect has nonetheless fully supported the prosecution version. With these broad submissions, he has 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 and have gone through the record.

6. The petitioner is alleged to have called the minor victim to his house and is alleged to have committed rape upon her on 05.03.2023/ 08.03.2023 and 3-4 times thereafter. The allegations against the petitioner are serious in nature. Non-detection of semen on the clothing of the victim cannot be stated to be a ground to say that the allegations levelled by victim were false because admittedly and evidently, she was examined after a gap of 35 days of the date of occurrence. No such material improvement could be pointed out by learned counsel for the petitioner on the basis of which it can be stated that her version is not credit worthy at this stage. The trial is going at a proper pace. Keeping in view the gravity of the offences alleged to have been committed by the petitioner, the quantum of the sentence which the conviction may entail and the attendant facts and circumstances but without meaning to make any merits of the case, I am of the considered

opinion that the petition does not deserve to be allowed. Hence the same is dismissed.

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

16th January, 2024

Parveen Sharma

1. Whether speaking/ reasoned

2. Whether reportable

[MANISHA BATRA]

JUDGE

:

:

Yes / No

Yes / No