

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.54448 of 2023
Date of Decision: 04.04.2024

Krishna Singh ... Petitioner

Versus

State of UT., Chandigarh ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. S.K. Kanojia, Advocate,
for the petitioner.

Mr. Manish Bansal, P.P., U.T., Chandigarh with
Ms. Diksha Sharma, Advocate.

MANISHA BATRA, J.(Oral)

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

FIR No.	Police Station	Sections
21	West Sector 11, Chandigarh	328, 366, 376, 506 and 120-B of IPC (376 (2) (d) of IPC added later on)

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 30.01.2023 on the basis of statement recorded by the prosecutrix “H” (name withheld) alleging therein that the present petitioner was her Instagram follower. On 15.10.2022, a party was arranged by the petitioner at Insane Club, Panchkula. She along with her five friends had gone to attend that party. On reaching there, the petitioner had forcibly made her drink liquor having some intoxicating substance in the same, on consuming which her physical condition had become deteriorated and she was not in her full

senses. She alleged that in that condition, she was forcibly taken by the petitioner outside the club towards his car and was made to board in his car. Thereafter, the petitioner had tried to remove her pants and a scuffle had taken place between them. At the same time, accused Harsh who is boyfriend of her female friend Aashi reached there and while taking her out of the car of the petitioner, he made her sit in the back seat of his own car by saying that she was safe there. The prosecutrix had slept there and on regaining some consciousness, she found the accused Harsh to be subjecting her to sexual intercourse and also found that her jeans was removed upto her knees. She had again become unconscious and on regaining the same, she found herself to be taken by the co-accused Yuvraj, Semil, Harsh and one unknown person. She was taken to some PG room wherein the accused Harsh and then the other accused had committed rape upon her. On the basis of her statement and after registration of FIR, investigation proceedings were initiated. The statement of the prosecutrix was recorded under Section 164 of Cr.P.C. She was medically examined. The present petitioner and the co-accused Rajat Thakur, Yuvraj Singh, Bhagat Singh, Harsh and one juvenile in conflict with law (name withheld) were also apprehended and arrested. They were also medically examined and presently, they are facing trial before the Fast Track Special Court, Chandigarh. The petitioner had moved application for grant of regular bail which had been dismissed vide order dated 25.07.2023.

3. It is submitted by learned counsel for the petitioner that he has been falsely implicated in this case. He is a student of a reputed college having no criminal antecedents. He had simply arranged a party. There were

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several boys and girls present in the party as organized by him and, therefore, there was no question of his forcing the victim to have drinks and to make any attempt to commit rape upon her. There were no allegations against him that he had ravished the victim and, therefore, he has wrongly been booked for commission of offences punishable under Section 376 (2) (d) of IPC. No case for commission of offences punishable under Sections 328, 366, 376, 506 and 376 (2) (d) as well as Section 120-B of IPC has been made out against him. He is in custody over a period of one year. The investigation has since been completed. The victim has also been examined and hence there are no chances of his intimidating her. He has a permanent abode. No useful purpose would be served by detaining him in custody. There is delay of four months in reporting the matter to the police which has not been satisfactorily explained by the prosecutrix and which also raises a doubt about the veracity of the version as given by the prosecutrix in the FIR. She has made material improvements in her statement recorded before the trial Court and, therefore, her testimony is also not worthy of any credence. With these broad submissions, it is urged that the petitioner deserves to be released on bail.

4. Status report has been filed by the respondent-Public Prosecutor, UT, Chandigarh as per which, the complicity of the petitioner in commission of the subject offences had been found after conducting thorough investigation in the matter. The trial is going on and there is nothing to show that there would be any undue delay in conclusion of the same. There are serious and specific allegations against the petitioner. The victim has supported the prosecution version in her deposition recorded in

the Court. Therefore, it is argued that he does not deserve to be given concession of bail.

5. I have heard learned counsel for the parties at considerable length and have gone through the record.

6. As per the allegations, as on the night of 15.10.2022, the victim along with some of her friends had gone to attend a party at Insane Club, Panchkula which had been organized by the present petitioner who was already acquainted with her. As per the further prosecution case, the present petitioner had forcibly made the victim drink liquor laced with some intoxicating substance on consuming which the victim did not remain in her normal senses and taking advantage of the same, he had taken her to his car parked in the parking lot and had removed her pants obviously with an intention to ravish her. Though as per the further allegations, he could not succeed in his design as in the meanwhile, the co-accused Harsh had taken the victim out of the car of the petitioner and thereafter, she was ravished by the co-accused Harsh as well as the other co-accused and these allegations do not make out a case of commission of act of committing rape upon the prosecutrix by the petitioner, however, nonetheless, they make out a case that it was he, who had firstly made the victim consume some intoxicating substance forcibly leading to her losing normal senses and in the inebriated state had not only took her to his car but also tried to remove her pants obviously with an intent to ravish her and had then left her for the purpose of being ravished by the other accused. The allegations against the petitioner are quite serious in nature. The trial is going on at a proper pace. The period of incarceration of the petitioner is not a ground to extend benefit of bail to

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him. Keeping in view the nature of allegations which have been levelled against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

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

04.04.2024
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(MANISHA BATRA)
JUDGE

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