

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

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CRM-M-54884-2023 (O&M)
Date of decision: 11.03.2024

Amit Malik

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.360 dated 22.05.2023, registered under Section 305 of IPC and 10 of the POCSO Act, 2012 [Section 6 of the POCSO Act and Sections 376(3), 376(2)(n) of IPC added later on] at Police Station Chandni Bagh, Panipat, District Panipat.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 21.05.2023, on receipt of an information regarding unnatural death of a minor girl, a police party headed by ASI Ramesh Kumar had gone to the place of occurrence i.e. the house of the victim, wherein her dead body was found lying over the bed. It was informed that the victim had

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hanged herself. Inquest proceedings and postmortem of the dead body were conducted. The mobile phone of the deceased was taken into custody. On 22.05.2023, the complainant, who is father of the victim, presented a written complaint alleging therein that his daughter used to take coaching classes for badminton from the petitioner and he suspected that the petitioner by putting his daughter under mental pressure had abetted her death. A case under Section 306 of IPC was registered on the basis of this statement. Subsequently, offence under Section 306 of IPC was deleted and offence under Section 305 of IPC was added as the victim was found to be aged 15 ½ years only.

3. As per the allegations on 06.06.2023, 'N' (*name withheld*), elder sister of the victim, recorded her statement under Section 164 of Cr.P.C. disclosing that the victim and herself used to take coaching classes of badminton in an academy for the last two and a half years under the petitioner. 5-6 months back, the petitioner had made his daughter Lakshita and herself attend some other academy for better coaching but had continued giving coaching to the victim at the same academy. She also recorded that they had been going along with the petitioner to attend different tournaments and during those periods, she had noticed that the petitioner ensured that the victim spent time with him and he used to make his daughter and herself separated from them on one pretext or the other. She alleged that in the month of May, 2023, he had tried to instigate her sister against her. He used to make talks of giving sex education to both of them. She had started noticing that from the last some period, the nature of the victim had become irritating. She had become weaker and started falling ill. Her behaviour had also become

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aggressive. She stated that on 20.05.2023, the victim told her that she wanted rope for the purpose of making a swing and then they along with their brother had gone and brought a rope in the night and in the next morning, had found the victim while hanging. She further recorded that in May, 2023, the victim had got her periods again within a period of 10 days but even on asking of her mother had refused to go to any doctor. She also recorded that after the suicidal death of her sister 21.05.2023, the petitioner had come to her house and had told her to give the mobile phone of the victim to him and otherwise, he would get trapped and the next day, he had asked her aunt to withdraw the FIR.

4. As per the allegations, on the basis of the statement of sister of the victim, the petitioner was arrested on 20.06.2023. He was interrogated and suffered disclosure statement admitting that he had allured the victim into his trap and in order to attract herself towards him, he had made talks of having a rift with his wife. The victim had started getting attracted towards her. He used to touch her body. He had also started giving her coaching separately from his daughter and her elder sister because of his ill intentions. He also admitted that he had done wrong things with the victim and used to provoke her against her father and other relatives. He also disclosed that he had started pestering the victim to have relations with him and also did wrong acts with her in the morning of 29.04.2023. The victim had started remaining under pressure. After completion of necessary 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 14.09.2023.

5. The instant petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he been falsely implicated in this case. No signs of any external or internal injuries were found on the dead body of the victim nor there was any evidence of her being sexually assaulted. The statement of her elder sister had been recorded, after a gap of 16 days and it was an act of deliberation and making concoctions against him. The trial is likely to take time. He is in custody since 20.06.2023. His further detention would not serve any purpose. The ingredients for commission of offence of abetting the death of the victim as well as other offences have not been made out at all against him. With these broad submissions, it is argued that the present petition deserves to be allowed.

6. Status report has been filed by the respondent-State, as per which, after conducting thorough investigation in the matter, it was revealed that the petitioner had been sexually harassing the victim and had then subjected her to acts of aggravated penetrative sexual assault/rape. The petitioner had been giving coaching of badminton to her. The statement of the sister of the victim as recorded under Section 164 Cr.P.C. gives the details of the acts as committed by the petitioner and which are pointer towards the fact that the petitioner had sexually harassed the victim, had ravished her and had abetted her suicide. Hence, it is urged that the present petition is liable to be dismissed.

7. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

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8. The allegations against the petitioner are quite serious in nature. He was giving coaching classes for badminton to the victim, who was a minor girl of tender age i.e. 15 years only. While being in the capacity of a teacher as well as a person in the position of trust, he misused his position and is alleged to have harassed the victim sexually as well as mentally to such an extent that the poor victim ended her own life. The possibility of a different cause for the suicide is not revealed at this stage from the material placed on record. Though, the question of *mens rea* on the part of the petitioner would be examined by the trial Court with reference to the actual acts and deeds of the petitioner on the basis of the evidence to be produced before it on record, however, the act and conduct of the petitioner, as narrated by the sister of the victim in her statement recorded under Section 164 Cr.P.C. and even after death of the victim when he coaxed the sister of the victim to give her mobile phone to him, shows that an active role had been played by him in drawing the victim to commit suicide, though the exact proximate link between the cause of suicide has to be determined on the basis of evidence produced before the trial Court. Keeping in view the nature of offences, specific allegations levelled against the petitioner that he had caused sexual as well as mental harassment to the victim leading the victim to commit suicide, coupled with the fact that the material witnesses are yet to be examined, 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.

9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

11.03.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>