



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

233-A

**CRA-S-3328-2023 (O&M)
Date of Decision : 15.05.2024**

TARA CHAND @ NIKHIL

.... Appellant

VERSUS

STATE OF HARYANA AND ANR

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. J.S. Grewal, Advocate for the appellant.

Mr. Saurabh Girdhar, AAG Haryana for respondent No.1.

Ms. Puneeta Sethi, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred against the order dated 10.10.2023 passed by the learned Additional Sessions Judge, Rewari dismissing the regular bail application under Section 439 Code of Criminal Procedure, 1973 filed in FIR No.308 dated 04.06.2023 under Sections 376(2)(N), 328, 120-B, 386, 354-A, 34 Indian Penal Code, 1860, Section 3 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Section 67-A of the Information Technology Act, 2000 registered at Police Station Model Town, Rewari.

2. The brief fact relevant to the present case are that a complaint was filed by the prosecutrix averring therein that she belonged to the Scheduled Caste and in December 2021 she met with Tara Chand (the appellant herein). As her condition was not good at that time, the appellant

**233-A CRA-S-3328-2023 (O&M)****-2-**

allured her and called her at the room of his friend where he gave her a cold drink and thereafter the prosecutrix fell unconscious. It is further the allegation that the appellant developed physical relations with her and he captured photo and video of that very incident. It is further the allegation that thereafter he would call her and develop physical relations with her by showing her the said photographs. His wife, namely, Siya, also knew about it. The appellant herein is also stated to have taken money on different occasions from the prosecutrix. A total of Rs.65,000/- is stated to have been taken by him. It is further averred that the appellant refused to return the money. The husband of the prosecutrix is stated to have died on 19.04.2023. On 01.06.2023 the appellant herein is stated to have called up the prosecutrix and he told her that his wife, namely, Siya (co-accused) had transferred all the photographs and video to her own phone and was demanding Rs.5,00,000/- in order to keep quiet otherwise she would make the photographs and video viral. On the next date the appellant called the prosecutrix and told her that his wife was demanding not only money from her but also from him. It was further averred that Rs.5,00,000/- were given to Siya (co-accused) yet the photographs were made viral by her by sending them to her son, namely, Tanuj, her sister-in-law and landlord and making them viral in the whole village. The statement of the prosecutrix was recorded under Section 164 Code of Criminal Procedure, 1973 wherein she



stated that the appellant and the prosecutrix knew each other and would talk to each other and that they would stay in a hotel room and that she had developed physical relations with her own consent and free will. It was further stated by her that one day the appellant had mixed something in her cold drink and she fell unconscious. Thereafter he made a video of her and had also taken money from her. It was further stated that on 01/02.06.2023 she received a phone call from the appellant and he told her that his wife had taken the photographs from his mobile phone and that the wife of the appellant had sent the photos and video to the prosecutrix's children, relatives and landlord. She further stated that she did not want any rape case as she had a son and a daughter whom she had to get married. She only wanted action taken for making her photographs and video viral.

3. The learned counsel for the appellant would contend that the prosecutrix in her statement recorded under Section 164 Code of Criminal Procedure, 1973 has categorically admitted that she was in a physical relation voluntarily with the appellant. It is further the contention that the allegations of making the photographs viral are not against the appellant but against the co-accused. It is further the contention that despite the case having been adjourned number of times, the prosecutrix has not come forward to get her statement recorded. The petitioner is stated to be in custody for a period of 11 months and 10 days.

4. Per contra, learned counsel for State-respondent No.1 has stated



233-A CRA-S-3328-2023 (O&M)

-4-

that serious allegations are leveled against the appellant and that charges of rape have been framed against the appellant. Learned counsel has filed the custody certificate and as per the custody certificate, the appellant has been in custody for a period of 11 months and 10 days.

5. Learned counsel for complainant-respondent No.2 has also contended that rape charges have been framed against the appellant.

6. Heard.

7. In the present case in the statement recorded under Section 164 Code of Criminal Procedure, 1973 the prosecutrix has stated that she was in a consensual relationship with the appellant. The allegations of having made the photographs and the video viral are not against the appellant. The appellant has been in custody for a period of 11 months and 10 days. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the appellant behind the bars any further.

8. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the appellant. The appellant is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

9. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the appellant is found to be misusing the concession of bail in any manner.



10.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.
11.

Disposed off. Pending applications, if any, also stand disposed off.

15.05.2024

(ALKA SARIN)

Aman Jain

JUDGE

NOTE:

Whether speaking/non-speaking: Speaking

Whether reportable: Yes/No