

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.55948 of 2023
Date of decision: 23.01.2024

Shri Krishan Bhargav ... Petitioner

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Naveen Siwach, Advocate,
for the petitioner.

Ms. Nidhi Garg, AAG, Haryana.

MANISHA BATRA, J.

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

FIR No.	Dated	Police Station	Sections
285	01.09.2022	Sector-14, Gurugram, District Gurugram	363, 366 and 506 of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”)

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint filed by the prosecutrix “K” (name withheld) alleging therein that from the last two months, she used to feel pain in her stomach and bleeding was also occurring. Her mother had taken her to Government hospital and on tests being conducted, it was revealed that she was

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pregnant. She submitted that she had no knowledge as to how she had become pregnant as she had no relationship with anybody nor she remembered that how and by whom she had been impregnated. She also revealed that she did not want any action. However, a case under Section 6 of POCSO Act was registered. Investigation proceedings were initiated. During the course of investigation proceedings, the statement of the prosecutrix under Section 164 of Cr.P.C. was got recorded. She was also medically examined. Counselling was also given to her. On 24.03.2023, she got her statement recorded thereby disclosing that the petitioner who had come to repair fridge in her house in the month of June 2022, had enticed her away on 16.06.2022 and had taken her to Leisure Valley Park for roaming and thereafter by taking her into a hotel, he had ravished her and had extended threat to kill her if she disclosed about the incident to anyone. Offences under Sections 363, 366 and 506 of IPC were added on the basis of this statement. The petitioner was arrested on 24.03.2023. His medical examination was also conducted. After completion of necessary investigation and usual formalities, challan was presented in the Court for trial of the accused and presently, he is facing trial for commission of the aforementioned offences. He had moved two applications for grant of bail before the Court of learned Additional Sessions Judge, Fast Track Court, Gurugram but the same had been dismissed.

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

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implicated in this case. The prosecutrix had not named him in the FIR and he had been implicated later on on the basis of statement allegedly recorded by the prosecutrix under Section 161 of Cr.P.C. though even in her statement recorded under Section 164 of Cr.P.C., she had not named him. He has further argued that neither the prosecutrix nor her mother have supported the version of the prosecution in their respective sworn depositions recorded before the Court. Even as per the DNA report, the DNA profiling performed on the blood of the accused with the blood of foetus of the victim as well as her own blood did not match and proved that the foetus was not the biological spring of the DNA profile generated from the blood of the accused. It is, further, argued that the trial is likely to take time. His further detention will not serve any useful purpose and accordingly it is urged that the petitioner deserves to be given benefit of bail.

4. Learned State counsel, on the other hand, argued that there are serious allegations against the petitioner and, therefore, he does not deserve to be released on bail.

5. I have heard learned counsel for the petitioner and learned State counsel and have gone through the record carefully.

6. The petitioner is alleged to have enticed the minor victim and by inducing her, is further alleged to have committed offence of aggravated penetrative sexual assault/rape upon her and is also alleged to have extended threats to her. However, when the star witnesses of the case i.e. the prosecutrix and her mother appeared before the learned trial

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Court and recorded their respective statements, neither of them implicated the petitioner in the commission of subject offences and gave a total go bye to the prosecution version. No doubt, the victim was found to be pregnant as on 31.08.2022 but the DNA report proves that the DNA of the foetus has not matched with the DNA of the present petitioner. Keeping in view the nature of evidence which has come on record in the form of the testimonies of the victim and her mother, the forensic evidence showing that it was not the petitioner who had impregnated the petitioner, the period of incarceration of the petitioner and the attendant facts and circumstances of the case but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition deserves to be allowed. Hence, the same is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

23.01.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No