

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

CRM-M-56034-2023 (O&M)
Date of Decision: 07.05.2024

SURJIT
STATE OF HARYANA

VERSUS

....Petitioner
....Respondent

CORAM : HON’BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Sandeep Punchhi, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

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

FIR No.	Date	Police Station	Sections
375	09.07.2023	P.S. Rania District Sirsa	354, 354-A of IPC, Section 8 of POCSO Act & Section 67 (A) of IT, Act

2. Brief facts relevant for the disposal of this case are that the
aforementioned FIR was registered on the basis of statement recorded by
complainant–M(name withheld) alleging therein that she was 16 years old and was
studying in 10+2 class in the school of her village. Her father was running a
grocery shop and used to go out of station to make purchases of grocery items for
his shop. During his absence, she used to manage the work of the shop and also
used to study while sitting on a bench which was lying outside their shop. She
alleged that the petitioner who was having his shop in the neighbourhood, used to
come to her whenever her, father was not there and used to touch her
inappropriately and whenever she resisted, he used to threaten that he would
destroy her image. She alleged that he had been doing so for the last six months

and even when she used to sit on the bench outside her shop to study, he used to come and do similar acts. She further alleged that on 08.07.2023, Surinder Kumar sent her a video on her mobile, showing the petitioner sexually harassing her while sitting along with her. She came to know that some unknown person had made a video of the acts of the petitioner and had made it viral. This fact came to notice to her family members also. Accordingly, she prayed for taking action against the petitioner. On the basis of her statement, initially a case under Sections 354 and 354-A of IPC and Section 8 of POCSO Act was registered. Investigation proceedings were initiated. The statement of the victim was recorded under Section 164 of Cr.P.C. The petitioner was arrested on 27.07.2023. During investigation offence under Section 67-A of Information Technology, 2000 (for short "IT Act") was included but the same was subsequently deleted. Investigation has since been completed and challan stands presented in the Court. The petitioner had moved an application for grant of regular bail before the learned Trial Court which had been dismissed vide order dated 11.10.2023.

3. The present petition has been filed by the petitioner on the grounds and it is argued by learned counsel for the petitioner that he has been falsely implicated in this case. The petitioner is in custody since 28.07.2023. The offence under Section 67-A of IT Act stands deleted. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that petitioner deserves to be released on bail.

4. Status report has been filed by respondent-State, as per which, allegations as levelled against the petitioner were proved on the basis of evidence collected during investigation. The same were serious in nature. The victim is yet to be examined and there are chances of the petitioner's intimidating the witnesses or absconding if extended benefit of bail. Hence, it is argued that the petitioner does not deserve to be given concession of bail.

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

6. The petitioner is alleged to have tried to outrage the modesty of the victim and sexually harassed her by committing act of trying to make physical contact and advances involving unwelcome and explicit sexual overtures. Investigation has since been completed. Challan has been presented filed before the learned Trial Court. Charges have been framed. Custodial interrogation of the petitioner is no more required. The petitioner is in custody for over a period of nine months. The trial is likely to take time. There is no basis for the contention that he will intimidate the victim or other witnesses or abscond as he has a permanent abode. Therefore, keeping in view the nature of allegations as levelled against the petitioner, the period of his incarceration and the period spent by him in custody, the fact that the trial is likely to take time and further keeping in view the well settled proposition of law to the effect that bail is the rule and jail is an exception but without commenting upon the merit of the case, I am of the considered opinion that no useful purpose would be served by keeping him in custody any more. Therefore, the petition is allowed and the petitioner is directed to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned and subject to the conditions that he will not make any effort to contact the victim or her family members and shall also not visit in the vicinity of the house of the victim during the pendency of the trial.

7. Pending applications, if any, also stand disposed of.

(MANISHA BATRA)
JUDGE

07.05.2024
Deepak Patwal

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| 1. | Whether speaking/reasoned | Yes/No |
| 2. | Whether reportable | Yes/No |