



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.57310 of 2023
Date of Decision: 13.05.2024

Bansi Lal ... Petitioner

Versus

State of Haryana and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vikas Bishnoi, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

Mr. Sandeep Kotla, Advocate,
for respondent No.3.

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
38	Women Police Station, Fatehabad, District Fatehabad	363, 366, 354A (1) (i), 376 (1), 419, 506, 34 and 120-B of IPC, 4, 8 and 16 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”) and 9 and 10 of the Prohibition of Child Marriage Act, 2006 (For short “Act, 2006”) and 67-A of Information Technology Act, 2000

2. Brief facts of the case relevant for the purpose of disposal of

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the present petition are that the aforementioned FIR was registered on 07.07.2023 on the basis of written complaint filed by the complainant "M" (name withheld) alleging therein that the prosecutrix "S" who was his minor daughter and who had just passed 10+2 class, had gone to attend a seminar of OM Global University on 18.06.2023 at Arora Vansh Dharamshala Fatehabad. The said seminar was completed by 1:00 PM. While she was returning home, the accused Ravi by enticing her away and inducing her, took her to Royal Guest House near bus stand Fatehabad where, juvenile "D" (name withheld) son of his maternal uncle and the present petitioner who is his friend and both of whom were employees of the said Royal Guest House, met them. Ravi made her change her clothing and wear a wedding dress and by making her exchange garlands, he got their photographs clicked and proclaimed that now they had got married. He alleged that thereafter, the petitioner and accused juvenile "D" had gone to the other room whereas Ravi had started molesting his daughter and when she resisted, then extended threat to kill her. She had started crying and thereafter he too became nervous and sent her back to house while telling her not to disclose about the incident to anyone.

3. The complainant further alleged that now he had seen the photographs of accused Ravi and his daughter as clicked by the accused Ravi in the Royal Hotel and on asking about this, his daughter had told about the entire facts to him. After registration of FIR, investigation proceedings were initiated. The statement of the prosecutrix was recorded under Section 164 of Cr.P.C. She was medico legally examined. The FIR was initially registered under Sections 376 (1), 419 and 120-B of IPC and

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offences under Sections 4 and 16 of POCSO Act were added later on, when the prosecutrix in her statement recorded under Section 164 Cr.P.C. disclosed the factum of her being ravished by accused Ravi. The offence under Sections 9 and 10 of Act, 2006 were deleted. The petitioner and the co-accused Ravi were arrested on 08.07.2023. The co-accused juvenile "D" was detained on 09.07.2023. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P.C. was presented against the petitioner and the co-accused Ravi and they are facing trial for commission of the aforementioned offences. The petitioner had moved an application for grant of bail before the Court of learned Additional Sessions Judge, Fatehabad which had been dismissed vide order dated 13.09.2023.

4. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. The prosecutrix has since been examined and she has admitted that the petitioner had not committed any wrong act with him and also that she had never met the petitioner before 18.06.2023 i.e. the date of occurrence nor he was known to her. It is argued that the allegations qua commission of either of the offences for which he is facing charge had not been made out against him. He is in custody since 08.07.2023. The trial is likely to take time. There are no chances of his absconding. There are no chances of his intimidating the material witnesses also as they already stand examined. His further detention would not serve any useful purpose. Therefore, it is argued that he deserves to be extended benefit of bail.

5. Status report has been filed by the respondent-State. It is vehemently argued by learned State counsel assisted by learned counsel for

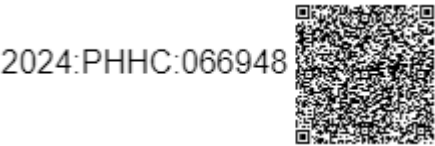
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respondent No.3 that there are serious allegations against the petitioner. He in connivance with the co-accused Ravi had provided a room in Royal Guest House which was taken by him on lease and had facilitated the commission of act of rape upon the prosecutrix by the co-accused Ravi. The abetment/facilitation on the part of the petitioner in committing offence of rape upon the prosecutrix was fully established from the material placed on record. Not even this, in the record of his hotel, he manipulated the entry of the prosecutrix by placing on record Aadhar Card of some other girl namely, "M" in place of Aadhar Card of the prosecutrix thereby committing the offence of cheating. With these broad submissions it is argued that the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner and learned State counsel assisted by learned counsel for the respondent No.3-prosecutrix at considerable length and have gone through the record.

7. The allegations against the petitioner are that he had taken lease of Royal Guest House at Fatehabad and on 18.06.2023, he had provided a room to the co-accused Ravi who had brought her in his hotel by inducing her and in respect of the name and identity of the prosecutrix, he had placed on the record of his hotel, Aadhar card of some other girl and had also facilitated/abetted the commission of act of rape/aggravated penetrative sexual assault upon the prosecutrix who was minor at the relevant time. Copy of statement of the prosecutrix has been placed on record and undoubtedly, it is revealed that during cross-examination, she had stated that she had never met the petitioner before 18.06.2023 and did not know him and that the petitioner himself had not committed any wrong act with her.



However, the statement of the prosecutrix to this effect does not exonerate the petitioner from the allegations as levelled against him qua his having entered into a conspiracy with the co-accused and facilitating the commission of offence of rape upon the minor prosecutrix in pursuance thereof, though it is a debatable question as to whether he had hatched any conspiracy with the co-accused Ravi qua commission of offences punishable under Sections 363 and 366 of IPC as well. Keeping in view the serious nature of the allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petitioner does not deserve to be extended benefit of bail. Hence, his plea for bail is dismissed. The petition stands dismissed.

13.05.2024
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(MANISHA BATRA)
JUDGE

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