

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

299

CRM-M-58123-2023 (O&M)
Date of decision: 21.03.2024

Yadwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sumeet Puri, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

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.95 dated 12.06.2023, registered under Sections 363, 366-A, 376, 376-D, 120-B read with Section 4 of the POCSO Act, 2012 at Police Station Bhawanigarh, District Sangrur.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of the statement recorded by the complainant 'J' (*name withheld*) alleging therein that the victim, who was his minor daughter, had gone missing from his house during the intervening night of 05/06.06.2023. He had been making search for her and had come to know that she had been enticed away by one Kuldeep

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Singh @ Tinda on the pretext of performing marriage with her, in connivance with the present petitioner. Initially, a case under Sections 363 and 366-A of IPC was registered. Investigation proceedings were initiated. During investigation, information was given to the police that the victim had returned home. She was got medico-legally examined on 13.06.2023. Her statement under Section 164 Cr.P.C. was also recorded. Offences under Sections 376-D read with Section 120-B of IPC and Section 4 of the POCSO Act were added. The petitioner and co-accused were arrested on 15.06.2023. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented and presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offences. The petitioner had had moved an application for grant of regular bail before the trial Court but the same had been dismissed, vide order dated 28.09.2023.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case and his name was unnecessarily dragged. The medical evidence does not show involvement of the petitioner in the act of committing aggravated penetrative sexual assault upon the prosecutrix but those allegations have been made out as against co-accused Kuldeep Singh @ Tinda. Even in her statement recorded under Section 164 Cr.P.C., the prosecutrix has not levelled any allegation against him of committing rape upon her. The petitioner is in custody since long. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. Therefore, he has argued that the present petition deserves to be allowed.

4. Status report has been filed by the respondent-State. Learned State counsel has argued that there are serious allegations against the petitioner. He, in connivance with co-accused, had enticed away the minor prosecutrix from her lawful guardianship and it was due to the conspiracy hatched by him with co-accused that the victim was subjected to act of rape by the co-accused. There are chances of the petitioner's intimidating the witnesses, if extended benefit of bail. Hence, it is urged that the petition deserves to be dismissed.

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

6. As per allegations in the FIR, the petitioner hatched a conspiracy with co-accused Kuldeep Singh @ Tinda and in pursuance of that conspiracy, both of them had taken the minor prosecutrix out of custody her lawful guardians i.e. her parents without their consent on the intervening night of 05/06.06.2023 and thereafter, the victim was subjected to aggravated penetrative sexual assault by the co-accused. She might not have named the petitioner as one of her ravishers but his complicity in the commission of subject offences, in pursuance of the conspiracy hatched by him with co-accused, cannot be ruled out at this stage. The victim and other material witnesses are yet to be examined. A reasonable apprehension has been expressed by learned State counsel that the petitioner may intimidate the witnesses, if extended benefit of bail. The allegations against him are quite serious in nature. Keeping in view the gravity of offences alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the

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considered view that the petitioner does not deserve to be given concession of regular bail. Hence, the petition stands dismissed.

7. 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.

21.03.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

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