

218 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-58880-2023
Date of decision: 18th April 2024

Sunil @ Anil @ Leela

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. S.S. Bairagi, 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
336	24.11.2022	Munak, Assandh, District Karnal	323, 452, 376, 511 and 354 of Indian Penal Code, 1860 (for short ‘IPC’)

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 complaint filed by the complainant ‘I’ (name withheld) alleging therein that on 20.11.2022, at about 2:00 PM, he had gone out of the village and his daughter ‘M’ (name withheld) aged 15 years was alone in her house when the petitioner entered therein, physically assaulted her and made an attempt

to ravish her. On hearing her screams, witnesses Jaibir and Manjit had entered inside his house and had seen the petitioner while molesting her. After registration of FIR, investigation proceedings were initiated. Medical examination of the victim was also conducted. Her statement under Section 164 of Cr.P.C. was recorded on 26.11.2022. The petitioner was arrested on 26.01.2023. His disclosure statement was recorded. The complainant recorded a supplementary statement on 28.01.2023, to the effect that the incident had actually taken place on 19.11.2022. During investigation, offences under Section 354 and 376 read with Section 511 of IPC were added and presently, the petitioner is facing trial. He had moved an application for grant of bail before the learned trial Court but the same was dismissed vide order dated 11.08.2023.

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 implicated in this case. The subject offences are not made out as against him at all. There is unexplained delay in reporting the matter to the police. The prosecution version is highly improbable and unnatural. Even the date of alleged occurrence has been changed by the complainant by recording a supplementary statement from 19.11.2022 to 20.11.2022. Infact, on 19.11.2022, on the basis of complaint filed by the complainant, Kalendra under Sections 107 and 151 of Cr.P.C. was presented against the petitioner and one Bajinder. The complainant subsequently compromised with the above said Bajinder but to seek revenge, the petitioner was falsely implicated in this case. The victim has since been examined. Her statement

is inconsistent to the version of the prosecution. There are no chances of his intimidating the witnesses. Infact, no case for commission of offence punishable under Section 4 has been made out against him at all. The trial is likely to take time. His further detention would not serve any useful purpose. Therefore, it is argued that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that there are serious allegations against the petitioner. He made an attempt to ravish the minor prosecutrix i.e. the daughter of the complainant on 19.11.2022 by criminally trespassing into her house and also outraged her modesty. There is nothing on record to show that there would be any undue delay in conclusion of the trial. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length besides perusing the record.

6. As per the FIR, the allegations against the petitioner are that as on 20.11.2022, he tried to made an attempt to ravish the minor prosecutrix. In her statement under Section 164 of Cr.P.C. as recorded before the Magistrate, the prosecutrix stated that the incident had taken place in the afternoon of 19.11.2022 when her mother who can not hear and see properly and remains sick, was present in the house and was resting in another room . Copy of her sworn deposition has also been placed on record as Annexure P-10 and a perusal of the same reveals that though the victim has reiterated the version as given in her statement under Section 164 of Cr.P.C. in her examination-in-chief but during cross-examination, she is shown to have

admitted that on 19.11.2022, her father had moved a complaint against the petitioner as well as one Bajinder regarding manhandling with her and also admitted that a compromise had been effected between her father and the said Bajinder and that is why, no action was taken against him. On the same date, a kalandra under Section 107 and 151 of Cr.P.C. is shown to have been presented by her father as against the petitioner. At the cost of repetition, it may be mentioned that the initial version in the FIR was that the occurrence had taken place on 20.11.2022, however, the prosecutrix allegedly recorded her supplementary statement, saying that it had taken place on 19.11.2022. If that was so, then it is certainly a debatable question as to how, the father of the prosecutrix got registered only a kalandra as against the petitioner and did not lodge any FIR with regard to the occurrence which had allegedly taken place with the victim as on that date and not on 20.11.2022. Though at the stage of considering the plea of the petitioner for grant of bail, it is not feasible and appropriate for this Court to go into the merits of the case and the fact as to whether the petitioner had committed the acts as alleged against the victim has to be determined on the basis of thorough assessment and evaluation of the evidence to be produced before the learned trial Court, however, since as per the allegations levelled against the petitioner in the FIR, it was an attempt to ravish the victim that has been made by the petitioner as on the date of occurrence and was not a case of ravishing her, the fact that the petitioner is in custody since 27.01.2023 and the nature of allegations as levelled against him and surrounding circumstances but without meaning to make any comment upon the merits of the case, I am of

the considered opinion that the petitioner deserves to be released on bail. Hence, the petition is allowed, the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. Since the main petition has been allowed, pending application if any is rendered infructuous.

18th April, 2024

Parveen Sharma

1. Whether speaking/ reasoned

2. Whether reportable

[MANISHA BATRA]

JUDGE

:

:

Yes

Yes