

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.58815 of 2023
Date of decision: 18.01.2024

Sonu

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Bhisham Kumar Majoka, Advocate,
for the petitioner.

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

MANISHA BATRA, J.

1. The present petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.8 dated 07.09.2015 registered under Section 509, 506 of IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 (Sections 120-B and 216 of IPC added later on) at Police Station Women, Sector-51, Gurugram, District Gurugram.

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 07.09.2015 on the basis of written complaint filed by the victim 'M' alleging therein that she along with her friend 'ME' (name withheld) used to go to a Marshal Art Academy run by one 'G' at a neighbouring village. On 04.09.2015 also she had gone to the Academy with her friend 'ME' and was sitting in

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the office of 'G' for the purpose of filling some form when the petitioner barged therein along with 7-8 youths and after entering therein, he opened an assault upon 'G' who while saying that he was doing something wrong with the girls. The victim and her friend tried to convince them that it was not so but he did not listen and all of them kept on assaulting 'G' and he was made to flee from his office. The petitioner had also spread a rumour in the village of the victim that something wrong was being done. Thereafter, the petitioner forced the victim and her friend to sit on his motorcycle on the pretext that he would drop them at their houses and otherwise threatened to defame them. The victim alleged that the petitioner also told her that he loved her and would kill her as well as her friend if they did not sit on his motorcycle. By saying so and frightening them, he boarded them on their motorcycle. She further alleged that while her friend 'ME' was dropped at her village but instead of taking the victim towards her house, the petitioner forcibly took her to some field wherein he committed rape upon her while pressing her mouth and thereafter dropped her at her village. Even thereafter, he kept on sending threatening messages and objectionable SMS to her on her mobile and out of fear, the victim did not disclose anything to anyone. She mustered courage to disclose about the incident to her parents only on 06.09.2015. She also took the name of the co-accused Kartikey. A case was registered. The victim was medically examined during investigation. Offences under Sections 120-B and 216 of IPC were added as the petitioner could not be arrested and his mother

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was alleged of shielding him and avoiding his apprehension. The co-accused Kartikey was also arrested. Both of them faced trial and have since been acquitted of the charges as framed against them.

3. It has come on record that the present petitioner was declared a proclaimed person/offender as proceedings under Section 82 of Cr.P.C. were initiated against him. He could be arrested only on 09.06.2023. After completion of investigation against him, he is presently facing trial before the learned Fast Track Court, Gurugram. He had moved an application for grant of regular bail before the concerned Court which had been dismissed vide order dated 06.10.2023.

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 co-accused have been acquitted as the version of the prosecutrix and her friend had not been believed to be true by the Court who had tried the co-accused. Challan against him has also been presented. Neither the victim nor her friend 'ME' have supported the case of the prosecution and have not implicated him in commission of the offences for which he is facing trial. He is in custody since long. The trial is likely to take time. No useful purpose would be served by keeping him custody. Therefore, it is argued that he deserves to be given concession of bail.

5. The bail petition has been resisted by the State in terms of the status report. Learned State counsel has argued that in her statement recorded under Section 164 of Cr.P.C., the victim had specifically named

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the present petitioner and had also alleged that he had ravished her while taking her inside Bajra fields. Semen was detected on her underwear which proved that she had been subjected to rape. The petitioner had been declared a proclaimed offender as he avoided his arrest over a period of about seven years and nine months. With these broad submissions, he has argued that the petition does not deserve to be allowed.

6. I have heard learned counsel for the parties and have perused the record.

7. The petitioner is alleged to have ravished and criminally intimidated the victim as on 04.09.2015. Co-accused Kartikeya and mother of the petitioner Anita were arrested in this case and they had faced trial. They were acquitted of the charges as framed against them vide judgment dated 21.04.2017. Though the petitioner cannot be given benefit of the fact that the co-accused were acquitted as the allegations against them were not the same but it has emerged from the record that in their respective sworn statements as recorded before the trial Court in this case, neither the victim herself who was the star witness of the case nor her friend 'ME' who was an eye witness have supported the allegations as levelled as against the petitioner. Copies of their statements have been placed on record as Annexure P-3 and a perusal of the same reveals that they have given a total go bye to the prosecution case qua the involvement of the present petitioner, though they have admitted that on 04.09.2015 they had gone to Marshal Art Academy of 'G' wherein some

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unknown persons had appeared and had extended beatings to the abovesaid ‘G’. Keeping in view the nature of the evidence which has come on record in the form of testimonies of the victim and her friend, the period spent by the petitioner in custody 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 further detention of the petitioner would not serve any useful purpose. Hence, the petition 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.

18.01.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No