

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

224

CRM-M-59372-2023 (O&M)
Date of decision: 01.05.2024

MOHAN SINGH

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. R.S. Chauhan, Advocate
for the petitioner.

Mr. Amrik Singh Narwal, DAG, Haryana.

Mr. S.S. Brar, Advocate
for the complainant.

HARPREET KAUR JEEWAN, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.143 dated 13.07.2021 (Annexure P-1) under Sections 376(2)(n), 323, 406, 506 IPC and Section 8 of the POCSO Act, 2012 registered at Police Station Women NIT, District Faridabad.
2. Custody certificate dated 29.04.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the petitioner has undergone 02 years and 12 days of actual custody.
3. As per the prosecution case, the complainant/prosecutrix and the petitioner became friends in the year 2019. The husband of the complainant/prosecutrix had expired on 02.07.2020 and thereafter the petitioner and the complainant/prosecutrix were on visiting terms. On the asking of the petitioner,

the complainant/prosecutrix had transferred a sum of Rs.5 lakhs in the account of the petitioner through RTGS. On 03.11.2020, the complainant/prosecutrix along with her children came to Faridabad and started residing with the petitioner, as the petitioner had promised to solemnize marriage with the complainant/prosecutrix. During this period, the petitioner had also taken gold ornaments of the complainant/prosecutrix and a sum of Rs.1 lakh in cash and also developed physical relationship with her. Later on, the complainant/prosecutrix came to know that whenever she went outside for purchasing goods or otherwise, the petitioner repeatedly sexually assaulted her elder daughter, who is about 13 years old.

4. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case and he is in custody for last 2 years. He further contends that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. The petitioner is ready to face trial. He submits that there is delay in lodging the present FIR and conclusion of trial is going to take time, as such prayer for releasing the petitioner on bail has been made.

5. Status report by way of an affidavit of Vishnu Prasad, HPS, Assistant Commissioner of Police, NIT, Faridabad along with copy of MLR of the prosecutrix/complainant (Annexure R-1), statement under Section 164 Cr.P.C. of the prosecutrix/complainant (Annexure R-2), statement under Section 164 Cr.P.C. of the victim (daughter of the complainant) (Annexure R-3), MLR of the victim (Annexure R-4), Disclosure statements of the petitioner (Annexure R-5) and MLR of the petitioner (Annexure R-6) have been filed on behalf of the respondent-State, which are taken on record.

6. On the other hand, learned State counsel on instructions from concerned Investigating Officer has opposed the bail petition on the ground of serious allegations levelled against the petitioner. He has informed that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. There are total 20 witnesses, out of which 4 witnesses including the complainant/prosecutrix and her daughter have been examined so far. He has further informed that both the complainant/prosecutrix and her minor daughter have supported the case of the prosecution.

7. Learned counsel for the complainant has opposed the bail petition on the ground that first bail petition of the petitioner i.e. CRM-M-44679-2022 was though dismissed as withdrawn on 21.04.2023, however there is no change of circumstance after dismissal of the said bail petition.

8. No doubt the petitioner is in custody for the last 2 years, however the allegations against the petitioner are serious in nature. The complainant/prosecutrix as well as her minor daughter have *prima facie* supported the prosecution case in the statements recorded under Section 164 Cr.P.C. on 14.07.2021 (Annexures R-2 and R-3). Their testimonies during the trial have already been recorded as Annexures P-8 and P-9. The child victim in her statement (Annexure P-8) and the complainant/prosecutrix in her statement (Annexure P-9) have *prima facie* supported the prosecution case.

9. The effect of delay and contradictions, if any are to be seen at the final stage in trial. The offence alleged to have been committed by the petitioner is against a Child Victim as well. Keeping in view the gravity of the allegations levelled against the petitioner, no ground is made out to release the petitioner on bail.

- 10. Consequently, the present petition is dismissed.
- 11. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.
- 12. Pending miscellaneous application (s), if any, shall also stand disposed of. disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

01.05.2024
P.Bhatt

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