

222

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-60304-2023 (O&M)

DATE OF DECISION : 20.03.2024

SUNIL

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Rishi Lal, Advocate for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

* * *

HARPREET KAUR JEEWAN, J. (ORAL)

1. Prayer in the present petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case bearing FIR No. 49 dated 29.05.2023 under Sections 328, 354, 354A, 354D(2), 376, 506 IPC and Sections 8 and 12 of Protection of Children from Sexual Offences Act, registered at Police Station Women, Kaithal, District Kiathal.

2. Learned counsel for the petitioner contends that the petitioner and the complainant were attracted towards each other and they had been talking to each other on mobile phone. The parents of the complainant used to beat her when they came to know about the love affair of the petitioner with the complainant. As such, the present false FIR has been registered at the instance of the parents of the complainant. It is further contended in her statement recorded on 30.05.2023 under Section 164 Cr.P.C., that the complainant has denied the allegations of rape and admitted her relationship

with the petitioner. However, she again moved a complaint dated

01.06.2023 to DSP, Kaithal alleging the allegations of rape and requested for her medical examination. Her statement was again recorded on 02.06.2023 under Section 164 Cr.P.C. The petitioner is in custody and is ready to face the trial.

3. Learned State counsel has filed the status report and has opposed the bail application on the ground of gravity of allegations.

4. I have considered the aforesaid contentions.

5. The complainant-prosecutrix who is minor and student of 9th class has herself given a written complaint dated 29.05.2023 to the Police levelling allegations against the petitioner for indulging in obscene acts with her. The petitioner is the teacher and the complainant is a student in the same school. It is alleged by the complainant that she protested and resisted the acts of the petitioner. However, she was threatened to be removed from the school and was instructed not to share these things to anyone. There are specific allegations that in November, 2022, the petitioner took the prosecutrix on his motor-cycle to Jannat Hotel near Ambedkar College and she was administered some intoxicant and she was molested. Her obscene photographs were taken by the petitioner on his mobile phone. Thereafter, the petitioner started harassing the prosecutrix and ultimately, she narrated the incident to her mother and to the other family members about 2 months before filing the complaint. Initially, the family members of the complainant interacted with the petitioner and out of shame, they did not lodge the complaint. The petitioner had been threatening to kill her and defame her in the society and make her photographs and recording viral on the facebook. Ultimately, on 26.05.2023 on her birth day, the petitioner made a photograph of the prosecutrix viral on facebook and twitter by

adding his own photograph. Ultimately, the complainant reported the matter to the police.

6. No doubt the petitioner is in custody but as per the status report on 30.05.2023, the investigating agency has even collected the records from the said Jannat Hotel, Kaithal corroborating the oral contentions of the petitioner. As per the medico- legal report of the victim (Annexure R-2), there is a history and brief incident corroborating the contents of the FIR. In her initial statement recorded u/s 164 Cr.P.C. (Annexure R-1), the prosecutrix has categorically supported the allegations against the petitioner for taking her to the hotel on 16.11.2022. She has stated that she went there under fear when the petitioner used to threaten her that he would send her recording to her parents. It is further in allegation in the said statement that the petitioner gave a fake Aadhar card of the prosecutrix in the said hotel in which her photograph is separate and date of birth is separate. She was made to consume a cold drink and she started feeling dizziness. It has also come in the statement that father of the prosecutrix was suffering from cancer and ultimately, he died on 21.12.2022 and thereafter, the prosecutrix told about the incident to her mother. Even in her subsequent statement u/s 164 Cr.P.C. recorded on 07.06.2023 (Annexure R-3), there are allegations against the petitioner of committing rape with the prosecutrix against her will.

7. Keeping in view the fiduciary relationship of the petitioner and the prosecutrix that of a teacher and student; the fact that the victim is minor; and the allegations that a minor victim was repeatedly being harassed by taking the benefit of fiduciary relationship, it is not a fit case for granting the relief of regular bail to the petitioner.

8. As such, the present petition stands dismissed.

20.03.2024

(HARPREET KAUR JEEWAN)

Janki

JUDGE

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