

2024-PHHC-172098



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

227

CRM-M-55290-2024 (O&M)
Date of decision : 20.12.2024

Parveen

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rajesh Bansal, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The instant one is the third petition filed by the petitioner seeking regular bail in case arising out of FIR No. 37 dated 13.04.2023, registered under Sections 354D, 354B, 323, 452, 376, 511, 386, 354A(1)(i), 506, 341, 385, 354C, 509 of the IPC and Sections 66, 67A of the Information Technology Act (*for short 'I.T. Act'*) [Section 201 of IPC and Section 66E, 67 of the I. T. Act added and Section 66 of the I. T. Act deleted later on]. The first and second petitions, bearing number **CRM-M-49457-2023** and **CRM-M-27779-2024**, were dismissed by this Court on 15.01.2024 and 02.07.2024, respectively, vide Annexures P-7 and P-8.

2. The petitioner is facing trial for commission of aforementioned offences on the allegations that he had made attempts to commit rape upon the prosecutrix, who was his cousin sister during the years 2015-16, had got extracted data from her mobile phone, which included her personal

photographs and had blackmailed her on the pretext of making those photographs/data viral and had been extracting money from her.

3. It is argued by learned counsel for the petitioner that he is in custody since 11.09.2023. The victim has since been partly examined and her cross-examination could not be concluded as an application under Section 319 of Cr.P.C. has been filed by the prosecution to summon Dinesh Hooda as an additional accused and the same is pending. The petitioner has been in long period of incarceration. The trial is likely to take time. His further detention would not serve any useful purpose. Even otherwise, he has been falsely implicated in this case. While drawing attention of this Court towards the statement of the prosecutrix, copy of which has been placed on record as Annexure P-6, and while pointing out towards the statement made by her in her cross-examination, it is argued that the prosecutrix herself has admitted that she had levelled allegations against the petitioner on the basis of doubt. It is, therefore, argued that since the prosecutrix herself was not sure about the allegations as levelled against the petitioner, the petitioner deserves to be released on regular bail.

4. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that there are serious and specific allegations against the petitioners. The earlier two similar petitions as filed by the petitioner seeking grant of regular bail have been dismissed by this Court by passing detailed orders. The petitioner has failed to make out any case indicting a substantial change in circumstances since the dates of dismissal of his earlier bail petitions. He has misused the process of law by filing repeated bail petitions. The trial is going on at a fast pace. Therefore, it is argued that the petition is liable to be dismissed.

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

6. Copies of orders passed by this Court while dismissing the earlier bail petitions of the petitioner have been placed on record as Annexures P-7 and P-8, a perusal of which shows that the same were dismissed by passing detailed orders. The only change in the circumstances which the petitioner has been able to point out is that the prosecutrix has since been partly examined. A perusal of the statement of the prosecutrix (partly recorded before the learned trial Court) reveals that in her examination-in-chief she has levelled specific allegations as against the petitioner and has supported the prosecution version. Simply because she has stated in her cross-examination that it was correct that she had made allegations against the petitioner on the basis of doubt, it cannot be stated that the petitioner is innocent because in the very next line, she is shown to have stated that the petitioner and Dinesh Hooda, who is proposed to be arraigned as an additional accused, were in connivance with each other. The statement recorded during examination-in-chief is also to be read. It is well settled proposition of law that when successive bail applications come before the Court, the Court should be very cautious while considering the same. Successive bail applications can be entertained by the Court when some substantial change is established by the accused thereby making him entitled for grant of bail. Reference in this regard can be made to *State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 Supreme Court, 2292*, wherein it was observed so and it was further held that the Court should not pass an order of release of an accused on bail in successive bail application merely establishing some cosmetic change between time gap

of two applications. There must be some drastic change during the period between two applications. Reference can also be made to *Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and another (2004) 7 SCC 528*, wherein it was observed by Hon’ble Supreme Court that where the offence alleged against an accused is grave, bail cannot be granted only on the ground of long incarceration. Therefore, keeping in view the discussion as made above, no substantial change in the circumstances can be stated to have been made out, at this stage. Therefore, I am of the considered opinion that the petitioner does not deserve to be given concession of regular bail at this stage. 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.

20.12.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>