

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

228

CRM-M-61253-2023 (O&M)
Date of decision: 26.02.2024

Salman @ Arman

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Mohammad Arshad, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This is the second petition that has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case bearing FIR No. 583 dated 21.11.2019, registered under Sections 376-D, 506 of IPC and Section 6 of the POCSO Act, 2012 at Police Station Sadar Tauru, District Nuh. The first petition, bearing **CRM-M-50735-2023**, was dismissed as withdrawn, vide order dated 12.10.2023.

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 a written complaint submitted by complainant 'J' (*name withheld*) alleging therein that on 21.11.2019 at about 05:00, his daughter 'S' (*name withheld*)

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had gone outside of the house to feed buffaloes in routine but she did not come back into house. They made search for her but could not trace her. In the meanwhile, they heard their neighbor Parveen abusing the victim. When the complaint party entered into the house of said Parveen, the petitioner and his brother Asif came out and while abusing them, they ran away by jumping off the roof by extending threat that if any legal action would be taken, they would kill the complainant party. The victim was recovered from their house in a deplorable condition. On inquiry, she disclosed that when she was feeding the buffaloes, the petitioner and his brother Asif caught hold of her from behind; took her to their house by stuffing some clothes into her mouth and then they ravished her turn by turn. The complainant prayed for taking legal action against the culprits. After registration of the FIR, investigation proceedings were initiated. The victim was medico-legally examined. Her statement under Section 164 Cr.P.C. was recorded. The petitioner was arrested on 18.05.2023. After completion of investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner along with co-accused is facing trial for the aforementioned offences. He had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 29.09.2023.

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. During the course of trial, the star prosecution witnesses i.e. PW-1/victim as well as her father PW-3 have resiled from their statement and have not implicated the petitioner as well as co-accused in the subject offences. The petitioner is in custody since 18.05.2023. The

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conclusion of trial is likely to take a long time. No useful purpose would be served by keeping him in custody anymore. It is, therefore, argued that the petitioner deserves to be given benefit of regular bail.

4. Learned State counsel has resisted the petition by arguing that there are serious allegations against the petitioner. He along with co-accused, who is his real brother, had ravished the victim turn by turn in his house by forcibly taking her to their house. There is nothing on record to show that there would be any undue delay in conclusion of trial. Therefore, he has argued that the present petition is liable to be dismissed.

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

6. The petitioner and co-accused, who is his real brother, are alleged to have forcibly taken the victim to their house and are alleged to have ravished her turn by turn. However, the victim as well as her father, while appearing before the trial Court as PW-1 and PW-3 respectively, have not implicated the petitioner as well as the co-accused in the subject crime. The victim, in her sworn deposition, has stated that nothing wrong had ever taken place with her by the petitioner or any other person at any point of time. She was declared hostile on the request of learned public prosecutor. Even during her cross-examination, she stated that she had got recorded her statement under Section 164 Cr.P.C. under the pressure of co-villagers. A perusal of the sworn deposition of PW-3/complainant, who is father of the victim, reveals that he has also stated on the same line as of the victim and has not implicated the petitioner in the subject offences. The petitioner is in custody since 18.05.2023. Conclusion of trial is likely to take some time. Keeping in view

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the evidence, which has come on record in the form of sworn depositions of the victim as well as her father, the period of custody spent by the petitioner and attendant facts and circumstances of the case, I am of the considered opinion that the petitioner deserves to be extended benefit of regular bail.

7. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

8. 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.

26.02.2024	(MANISHA BATRA)
<i>Waseem Ansari</i>	JUDGE
<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>