

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.60893 of 2023 (O&M)
Date of Decision: 18.03.2024

Nikhil ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sukesh Kumar Jindal, Advocate,
for the applicant-petitioner.

Ms. Nidhi Garg, AAG, Haryana.

MANISHA BATRA, J.(Oral)

CRM-5496-2024

The prayer in the present application is for grant of permission to amend the present petition and for placing on record charge sheet dated 18.05.2023 as Annexure P-9.

Heard. For the reasons mentioned in the application, the same is allowed. The amended petition as well as the charge sheet dated 18.05.2023 (Annexure P-9) are taken on record.

Main Case

1. The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
107	21.03.2023	Model Town, Panipat	306, 363, 366, 366-A, 511 and 120-B of IPC

2. Brief facts of the case relevant for the purpose of disposal of

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this petition are that the aforementioned FIR was initially registered under Section 365 of IPC, on the basis of written complaint filed by the complainant "D" (name withheld) alleging therein that the victim "M" (name withheld) who was his seventeen and half years old daughter, had gone to take her 12th Board Final Examination on the same day at about 11:30 AM, but had not returned back. After registration of FIR, investigation proceedings were carried out. The complainant handed over a suicide note written by the victim as found in his house which was taken into possession by the police. CCTV footages of the vicinity were taken and it was revealed that on the same day, the victim girl was seen while sitting in a car bearing registration No.HR-05-AR-5444 at Easy Day Chowk, Model Town, Panipat. On inquiries, it was revealed that one Anil Saini was owner of the abovesaid car and he disclosed that on that day, his car was borrowed by the co-accused Kapil, who was his friend.

3. As per the further allegations, the victim came back on the next day i.e. on 22.03.2023 by herself and was taken to Civil Hospital, Panipat for her medical examination. She refused to get her medical examination conducted. Her statement under Section 164 of Cr.P.C. was recorded before Magistrate wherein she disclosed that the petitioner was her tutor. He had pressurized her to go with him and had pressed upon her to firstly write a suicide note and leave it in her house and threatened that if she did not do so then that would not be good for her family. She further recorded that on 21.03.2023, she had taken her last examination and thereafter, by pressurizing and threatening her, they had taken her towards Rajasthan by making her board in a vehicle. She stated that she had returned back in the

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morning of 22.03.2023 and nothing wrong had happened with her. Subsequently, she got her supplementary statement recorded on the basis of which, offence under Section 365 of IPC was deleted and offences under Sections 363, 366, 366-A and 306 read with Sections 511 and 120-B of IPC were added. The petitioner and the co-accused Kapil were joined into investigation on the same day. They suffered disclosure statements to the effect that the petitioner wanted to perform marriage with the victim. They had entered into a conspiracy in pursuance of which the co-accused Kapil had brought car bearing registration No.HR-05-AR-5444 and they had made the victim board in the said car. Initially, the petitioner sat in the said car but thereafter, he had alighted from the same and the co-accused Kapil had taken the victim towards Rajasthan but while on the way, on receipt of instructions from the petitioner, the co-accused Kapil had brought her back to Panipat. The co-accused Kapil also got recovered the car used in the commission of the crime. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P.C. was presented for trial of the accused for commission of aforementioned offences. However, the learned trial Court framed charges under Sections 363 read with Section 120-B and 366 of IPC as against the present petitioner and under Section 366-A of IPC as against the co-accused Kapil. The petitioner had moved an application for bail before learned trial Court which had been dismissed vide order dated 14.11.2023.

4. In the present petition which is an amended petition filed after framing of charges, it is submitted and argued by learned counsel for the petitioner that he is in custody for a period of about one year. He has clean

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antecedents. The trial is likely to take time. There are no chances of his intimidating the witnesses. Infact, the ingredients for commission of offences punishable under Sections 363 read with Section 120-B and 366 of IPC for which he had been chargesheeted, have not been made out as against him at all. He has a permanent abode. There are no chances of his fleeing. The period of each day of his incarceration is a ground to extent benefit of release on bail to him. Therefore, it is argued that the petitioner deserves to be given concession of bail.

5. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has vehemently argued that there are serious allegations against the petitioner. He was tutor of the minor victim and was in a dominating position. He prevailed upon her to leave lawful guardianship of her parents without intimating them and even induced the victim to write and leave a suicide note at her house so as, his participation in the act of the victim having gone missing could not be revealed. It is further argued that the trial has commenced and there is nothing on record to show that there would be any undue delay in conclusion of the same. The victim is yet to be examined. There are chances of his intimidating the witnesses. Therefore, it is argued that the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

7. The petitioner by entering into a criminal conspiracy with the co-accused Kapil is alleged to have enticed away the victim to leave her lawful guardians i.e. her parents without their consent and is further alleged

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to have made her go along with the co-accused Kapil to Rajasthan so that she could be compelled to marry with the petitioner subsequently or might be seduced to illicit intercourse. However, somehow, the victim was brought back by the co-accused on the same night. The petitioner is in custody from the last about one year. The trial is likely to take time. There is no basis for the contention that he may intimidate the prosecutrix or material witnesses. In my opinion, the further detention of the petitioner would not serve any useful purpose. Taking into consideration, the period of incarceration of the petitioner, the nature of the subject offences, the well settled proposition of law to the effect that the bail is the rule and the jail is an exception and further in view of totality of facts and circumstances of the case, but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition deserves to be allowed. Hence, the same is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal/surety bonds to the satisfaction of learned trial Magistrate and further subject to the following conditions:-

- (i) The petitioner shall not visit the residence of the complainant and shall not try to contact or meet the prosecutrix in any manner.
- (ii) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any Police Officer.
- (iii) He shall not commit any similar offence while on bail.
- (iv) He shall not leave India without the previous permission of the Court.

8. In case of violation of any of above condition, the jurisdictional

Court concerned will be empowered to consider the application for

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cancellation of bail of the petitioner, if required and pass appropriate orders
in accordance with law.

18.03.2024
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(MANISHA BATRA)
JUDGE

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