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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision :29.02.2024

CRM-M-62099-2023(O&M)

Gattu @ Deepak

Vs.

...Petitioner

State of Punjab

...Respondent

CRM-M-115-2024(O&M)

Ronit @ Kaku

Vs.

...Petitioner

State of Punjab

...Respondent

CORAM:- HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Piyush Sharma, Advocate
or the petitioner.

Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J. (ORAL)

1. With the consent of learned counsel representing the parties, two separate but connected petitions shall stand disposed of by this common judgment.
2. Power of attorney filed on behalf of petitioners is taken on record.
3. The present petitions have been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
116	20.06.2023	Sadar Fazilka, District Fazilka	376-D, 365, 379-B and 323 IPC and Section 6 of POCSO Act

4. On the basis of the statement (Annexure P-1) recorded by the prosecutrix ‘J’ (name withheld) while disclosing herself to be 14 years that on

16.06.2023, she alongwith her paternal aunt and grandmother had gone to meet some relatives. On the same night, when she alongwith her paternal aunt had gone to a neighbouring dhaba for the purpose of buying meals, then 8-9 unidentified youths intercepted them and started teasing her. They were having kappas and base balls. When she resisted, then they opened an assault upon her. On seeing it, her paternal aunt and paternal uncle, namely, Rinku rushed towards her but they too sustained injuries at the hands of those boys. One of those boys snatched the mobile phone from her paternal aunt. Two of them forcibly lifted her and took her somewhere on a motorcycle. She was also forced to sit on a scooty by two of them and they took her towards Jandwala, Kharta Road, wherein, she was ravished by them one by one. She alleged that subsequently some other accused had also reached there and committed rape upon her. She managed to reach the house of her relatives somehow and narrated the incident to them. She was taken to the hospital. She disclosed that some of the boys were addressing each others with the names of Kaku, Gattu and Sukhagand and also stated that she could identify them on seeing them. On the basis of her statement, initially a case under Sections 376-D, 365, 379-B and 323 of IPC, 1860 read with Section 6 of POSCO Act, 2012 was registered. Investigation proceedings were initiated. The statement of her paternal aunt was also got recorded, subsequently, who deposed that she had been subjected to rape by some of those youths on the same night. The petitioner was arrested on 22.06.2023. They were also medically examined. Co-accused Ronit@ Kaku was also arrested. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner alongwith the co-accused-Ronit@ Kaku is facing trial for commission of the

aforementioned offences. They had moved an application for grant of bail before the learned trial Court, which had been dismissed vide order dated 17.11.2023 (Annexure P-3).

5. The present petitions have been filed by the petitioners on the grounds that they are in custody since 22.06.2023. They have been falsely implicated in this case. None of the victims have implicated them in the commission of the subject offences. In their respective depositions as recorded before the learned trial Court, they have totally exonerated them of the allegations as levelled against them. Therefore, it is argued that no useful purpose would be served by keeping them in custody any more and accordingly, it is urged by learned counsel for the petitioners that the petitioners deserve to be given concession of bail.

6. *Per contra*, learned State counsel has argued that there are serious allegations against the petitioners. The DNA report is yet to come on record. Therefore, it is argued that the petitioners do not deserve to be given concession of bail.

7. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

8. The petitioner alongwith the co-accused-Ronit@ Kaku is alleged to have abducted the minor victim as well as her paternal aunt as on the night on 16.06.2023 and it is further alleged to have committed gang rape upon her after assaulting her. There are also allegations of snatching of mobile phone of the paternal aunt of the prosecutrix by them. However, neither the prosecutrix nor her paternal aunt i.e. PW2 are shown to have supported the version of the

prosecution in their statements, which they have recorded before the learned trial Court. They stated that neither any threat was extended to them nor they were subjected to any act of sexual intercourse by anyone including the petitioners. They have also not identified the petitioners as the persons who had committed some offence with them. In view of the nature of the evidence that has come on record, the period spent by the petitioners in custody and the entire facts and circumstances, I am of the considered opinion that the petitioners deserve to be extended benefits of bail. Hence, the petitions are allowed and the petitioners are ordered to be admitted to bail subject to their furnishing personal as well as surety bonds to the satisfaction of learned trial Court/Illaqa Magistrate.

10. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

11. Since the main petitions stand allowed, pending application, if any, is rendered infructuous.

29.02.2024

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Whether speaking/reasoned :

Whether Reportable :

Yes

Yes

No

No

(MANISHA BATRA)

JUDGE