

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

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CRM-M-61898-2023 (O&M)
Date of decision: 11.03.2024

Deepak

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ashok Kumar Sharma (Bhana), Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.0121 dated 27.05.2023, registered under Sections 363 and 366-A of the IPC [Sections 328, 342, 354-A, 345-D, 376(3), 34 and 506 of IPC and Sections 6,10, 12 of the POCSO Act were added later on) at Police Station Uchana, District Jind.
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 complaint filed by the brother of the victim on 27.05.2023 alleging therein that the victim, who was his 15 years' old sister, had left the house on 26.05.2023 without giving any information. Initially, a case under Sections

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363 and 366-A of IPC had been registered. During investigation, a pen drive containing the CCTV footage taken from the cameras installed at a particular area in the vicinity had been produced by the complainant, in which, the victim was shown going with the present petitioner on a motorcycle bearing registration number HR-21-L-7442. He was joined in investigation on 30.05.2023 and thereafter also. The victim was recovered on 31.05.2023. Her statement under Section 164 Cr.P.C. was recorded on 01.06.2023, wherein she stated that the present petitioner had made her go with him on his motorcycle on the pretext of taking her to some hotel and while on the way, after taking money from some persons, he had handed over her custody to those unknown persons and had fled from the spot. She also stated that she remained unconscious and on regaining consciousness found herself confined in a hotel, wherein she was kept under intoxication and had been ravished by the co-accused and some other persons. On the basis of this statement, co-accused as well as the petitioner were arrested. The petitioner was interrogated and suffered disclosure statement admitting his involvement in the subject offences and got recovered the motorcycle, which was used by him for the purpose of taking away the minor victim. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented in Court and presently, the petitioner is facing trial for commission of aforementioned offences. He had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 14.11.2023.

3. It is *inter alia* contended by learned counsel for the petitioner that as per the statement recorded by the victim, the only role that was attributed to

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the petitioner was that he had made her ride on his motorcycle as on 26.05.2023 and had handed over her custody to some other persons. There is no allegation of his committing any act of sexual harassment or aggravated penetrative sexual assault/rape upon the victim. He is in custody since 29.07.2023. Trial is likely to take time. Therefore, it is argued that the present petition deserves to be allowed.

4. Status report has been filed by the respondent-State, as per which, the petitioner had taken away minor victim from the guardianship of her parents and had sold her, thereby committing the offence of human trafficking, for the purpose of throwing her into flesh trade, in connivance with co-accused. There are serious and specific allegations against the petitioner. In terms of the status report, learned State counsel has vehemently argued that the present petition is liable to be dismissed.

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

6. The petitioner is alleged to have enticed away/induced the minor victim to go along with him to some hotel and is further alleged to have sold her to the co-accused, who by way of her immoral trafficking, got her involved in flesh trade and she is alleged to have repeatedly been ravished by some persons including the co-accused. The contentions that there was no allegation qua the petitioner himself committing any offence of sexual harassment or aggravated penetrative sexual assault/rape upon the victim, has no force in view of the fact that the material placed on record *prima facie* shows that it was him, who in connivance with co-accused, had abetted the commission of aforesaid offences by the co-accused, besides the fact that he

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had also enticed away the victim for the purpose of exposing her to flesh trade by selling her to co-accused. The allegations against him are quite serious in nature. The trial has commenced and there is nothing on record to show that there would be any undue delay in conclusion of trial. Therefore, keeping in view the gravity of offences alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that the petitioner does not deserve to be given concession of regular bail. 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.

11.03.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

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