

Neutral Citation No. 2024:PHHC:076604

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

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CRM-M-63463-2023 (O&M)
Date of decision: 29.05.2024

Lachhman Singh ...Petitioner
Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. J. S. Jaidka, Advocate
for the petitioner.

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

Mr. Ravneet Nagrath, Advocate
for respondent No. 2.

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. 73 dated 03.05.2023, registered under Sections 376, 506 of IPC and Section 4 of the POCSO Act, 2012 at Police Station Jagraon, District Ludhiana.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 03.05.2023 on the basis of the statement recorded by the complainant 'H' (*name withheld*)alleging therein that the prosecutrix 'S' (*name withheld*), who was her 15 years' old daughter studying in a local school in 11th Class, was noticed

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by her to be remaining quiet from some days. On making probe, she disclosed that the petitioner had taken her to some unknown place on 25.03.2023 and had committed rape upon her. He had also extended threat to kill her, if she disclosed about the incident to any person and out of fear, she did not disclose about this fact to anyone. After registration of the FIR, statement of the prosecutrix under Section 161 of Cr.P.C. was recorded, wherein she stated that the occurrence had taken place on 25.04.2023. Her statement under Section 164 of Cr.P.C. was also recorded, wherein the allegations as made in the FIR were reiterated. She refused her medical examination at the first instance but the same was conducted on 13.05.2023. The petitioner was arrested on 03.05.2023. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented and presently, the petitioner is facing trial for commission of aforementioned offences. He had moved an application for grant of bail before the trial Court but the same has been dismissed, vide order dated 15.11.2023.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. The complainant and the victim have since been examined and there are material discrepancies in their statements. There is contradiction in the statement of the mother of the prosecutrix with regard to the day, when the occurrence had taken place. There was delay in reporting the matter to the police as well as in conducting the medical examination of the prosecutrix. There is no medical evidence on record to connect the petitioner with the offences as alleged against him. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore.

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With these broad submissions, it is urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. Reply, on behalf of respondent No. 2/complainant has also been filed. It is submitted therein and it has been argued by learned State counsel, assisted by learned counsel for the complainant, that the petitioner, who is a Carpenter by profession, had made the prosecutrix sit in his car on 25.04.2023 on the pretext of dropping her at her school but had taken her to some house, wherein he was working as a Carpenter and had committed rape upon her. It is argued that the prosecutrix reiterated the version as given in her statement recorded during the course of investigation, while appearing as a witness. The petitioner has suffered disclosure statement admitting his involvement in the subject offences. Non-detection of any male DNA from the vaginal swabs cannot be made a ground for release of the petitioner on bail as the same could not be detected as the prosecutrix was examined after a gap of 18 days from the date of occurrence. The prosecutrix and her mother have fully supported the prosecution version. The trial is being expedited and there is nothing on record to show that there would be any undue delay in conclusion of the same. Hence, it is argued that the petition is liable to be dismissed.

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

6. The petitioner, who was residing in the neighbourhood of the minor prosecutrix, is alleged to have made her board in his car on the fateful day on the pretext of dropping her at her school and is further alleged to have

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taken her to an under construction house, wherein he subjected her to the act of penetrative sexual assault and also criminally intimidated her. The copies of the statements of the prosecutrix and her mother have been placed on record, a perusal of which shows that they have deposed in support of the prosecution’s case. The allegations against the petitioner are serious and specific in nature. It is for the trial Court to see that there are some material discrepancies in the statements of the witnesses and they can be made ground for acquittal of the petitioner or not and this question cannot be considered by this Court at this stage while deciding the plea for grant of bail of the petitioner. The apprehension expressed by learned State counsel that the petitioner may abscond, if extended benefit of bail, cannot be stated to be unfounded at this stage. Keeping in view the nature of allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail and attendant facts and circumstances of the case, I am of the considered opinion that the petitioner does not deserve to be extended benefit of bail, at this stage. Accordingly, the petition is dismissed.

7. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

29.05.2024

(MANISHA BATRA)
JUDGE

Waseem Ansari

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