

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

319

CRM-M-64836-2023 (O&M)
Date of decision: 16.01.2024

Sumit Tomer ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. L. K. Gollen, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Lokesh Kaushik, Advocate
for respondent Nos. 2 and 3.

MANISHA BATRA, J. (Oral)

1. This is the second petition that has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 133 dated 21.07.2023, registered under Sections 376-D, 120-B, 328, 323, 34 of the IPC at Women Police Station, District Rewari. The first petition, bearing CRM-M-56914-20213, was dismissed as withdrawn, vide order dated 04.12.2023.
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 filed by complainant 'S' (*name withheld*) alleging therein that she was residing in a rented accommodation in Gurugrma along with victim No. 2 'M' (*name withheld*). Both of them had been searching for job and in this context, they had met accused Reeta, who had promised them to

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get them employed. She alleged that as on 20.07.2023, accused Reeta had informed them to go to Rewari for the purpose of their jobs. On her asking, they had gone to Rewari with her from Rajiv Chowk, Gurugram in a car, in which two persons apart from accused Reeta were already present. Both of those persons had represented to them that they would get the victims employed in some company at Rewari as they were having good connections. They had taken the victims to a hotel at Rewari and served tea to them, on consuming which, the complainant/victim had not remained in her normal senses. She was taken to some other room, wherein both of them had committed upon her turn by turn. On regaining consciousness, she had found nobody in her room. She found that victim 'M' was also lying unconscious in another room of the same hotel and on waking her up, she too disclosed that both those persons had extended beatings to her and had also committed rape upon her. Aforesaid Reeta was also found missing. She alleged that Reeta had disclosed the names of both the rapists as Sumit and Vinay, respectively. She prayed for taking legal action against the culprits. After registration of the FIR, investigation proceedings were initiated. Both of the victims refused to get their medico-legal examination conducted. Their statements under Section 164 Cr.P.C. were got recorded, wherein they stated that they had lodged this case under some misunderstanding and did not want to take any action. However, the investigation continued. The petitioner and co-accused were arrested on 22.08.2023. After completion of investigation and usual formalities, challan was presented in Court against both the accused and presently, they are facing trial for commission of aforesaid offences.

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3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has falsely been implicated in this case. In fact, the alleged victims, under the garb of a sex racket, had tried to extort money from him. It is admitted that he along with co-accused Vinay and Reeta had gone to Hotel Parichay on 21.07.2023 along with the victims and had stayed there and had got three rooms booked there. It is argued that as soon as both the victims came to know that the petitioner was a police man, they planned to implicate him in a false case and demanded a sum of Rs. 5 Lakhs and on account of failure to meet with this demand as made by them, they had lodged a false case against the petitioner. He has argued that neither medico-legal examination of the victims was got conducted nor had they made any allegations as against the petitioner in the statements recorded under Section 164 Cr.P.C. Respondent Nos. 2/victim has even sworn an affidavit in his favour. While further arguing that the victims had voluntarily gone to the hotel along with him and it was not a case of rape and even CCTV footage of the above said hotel did not show so, it is argued that the petitioner deserves to be given the benefit of bail.

4. *Per contra*, learned State counsel has argued that there are serious allegations against the petitioner. The victim had appeared again before the concerned Magistrate on 17.10.2023 and had recorded her statement under Section 164 Cr.P.C. making specific allegations that previous statements of victim 'M' and herself, recorded under Section 164 Cr.P.C., were recorded under the pressure of one ASI Rachna Yadav and it was only under her pressure that they had stated that they did not want their medico-legal examination conducted. She has also stated that both of them had been

ravished by the petitioner and co-accused Vinay on 20.07.2023. It is submitted that the statements of the victims are yet to be recorded. There are chances of the petitioner to intimidate them if extended benefit of bail. The allegations against the petitioner are quite serious in nature. Hence, it is argued that the petition is liable to be dismissed.

5. *Vakalatnama* on behalf respondent Nos. 2 and 3/victims has been filed and interestingly, learned counsel for the complainant/victim has stated that he does not want to contest this petition.

6. I have heard learned counsel for the parties and have also gone through the material placed on record.

7. The petitioner along with co-accused is alleged to have hatched a conspiracy and in pursuance of the same, he is alleged to have taken the complainant/victim as well as victim 'M' to a hotel in Rewari on 20.07.2023 and is further alleged to have administered them some intoxicating substance by mixing in tea and then the victims are alleged to have been ravished by him and co-accused Vinay. Investigation is complete. Challan has been filed in the Court but the charges are yet to be framed and the statements of the victims are yet to be recorded. Mere fact that the victims were not medico-legally examined and in their statements recorded under Section 164 Cr.P.C., they had firstly stated that they did not want to initiate any action, does not show the innocence of the petitioner, who himself has admitted taking them to a hotel as on the fateful day and who himself has placed on record the copy of the register of the said hotel showing that three hotel rooms were booked in his name on that day. Keeping in view the gravity of offences alleged to have been committed by the petitioner, the quantum of sentence which the

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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.

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.

16.01.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

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