

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

237

CRM-M-64936-2023(O&M)
Date of Decision: 27.02.2024

MOHIT KUMAR @ GAURAV

....Petitioner

VERSUS

STATE OF HARYANA

....Respondent

CORAM : HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Nishat Raj Ghangas, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 439 Cr.P.C. seeking grant of regular bail in case arising out of FIR No.174 dated 15.05.2023 registered under Section 365, 376-D, 506 of IPC, 1860 later on challan has been filed under Section 376, 506 IPC and Section 6 of POSCO Act, 2012 registered at Police Station Model Town Panipat, District Panipat on the basis of a written complaint filed by G(name withheld) alleging therein that on the night of 13.05.2023, she had woken up and found the prosecutrix (name withheld) who is complainant's daughter to be missing. She kept on searching of her. At about 4:00 AM, she was found lying outside in an unconscious condition. On regaining the consciousness, the victim disclosed that the present petitioner who is her co-villager along with his two accomplices had forcibly taken her in the mid-night in a vacant plot and after extending threat to kill her brother, had forcibly committed rape upon her.

After registration of the FIR, investigation proceedings were initiated. The

victim was medico legally examined. Her statement under Section 164 CrPc was recorded. The petitioner was arrested on 22.05.2023 and was also medico legally examined. After completion of necessary formalities, challan was presented under Section 173 Cr.P.C against him and presently he is facing trial for the commission of the aforementioned offences.

2. It has been argued by counsel for the petitioner that the petitioner has been falsely implicated in this case. Neither the prosecutrix nor her mother who is the complainant have supported the version of the prosecution while stepping into the witness box before the Trial Court. The trial is likely to take considerable time. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed.

3. Learned State counsel on the other hand has argued that since there are serious allegations against the petitioner, therefore, he does not deserve to be extended the benefit of regular bail.

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

5. A perusal of copy of the statement of the prosecutrix as well as her mother which have been recorded before the trial Court reveals that both of them did not implicate the present petitioner in the subject crime. Both of them have turned hostile while resiling from their previous version and have been declared hostile by learned Public Prosecutor. It is also revealed that despite the fact that they have been cross examined by the learned public prosecutor, they have not changed their stands so taken.

6. In view of nature of evidence that has come on record in the form of testimonies of both the material witnesses the period of incarceration of the petitioner and on considering the entire facts and circumstances of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. As such, the petition is allowed and the petitioner is directed to be released on bail subject to his furnishing personal surety bonds to the satisfaction of the Trial Court concerned.

7. However, the Prosecution will always be at liberty to apply for cancellation of bail in case, the petitioner is found to be misusing the concession of bail in any manner.

8. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

9. Disposed off. Pending applications, if any, also stand disposed off.

(MANISHA BATRA)
JUDGE

27.02.2024
Deepak Patwal

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO