

237 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65236-2023 (O&M)
DATE OF DECISION : 08.04.2024

CHAND KUMAR

... PETITIONER

VS.

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Rajesh Duhan, Advocate, for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

* * *

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in case FIR No. 152 dated 29.07.2022 under Sections 376(2)(n) and 506 of the Indian Penal Code, 1860 (for short '*the IPC*') and Section 6 of the Protection of Children from Sexual Offences Act, 2012, (for short '*the POCSO Act, 2012*') registered at Women Police Station, District Karnal (Haryana).

2. The allegations against the petitioner are that he is alleged to have enticed away the minor prosecutrix, repeatedly sexually abused her and his co-accused Raju had made a video of occurrence. The petitioner allegedly threatened the prosecutrix to make the said video viral.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is in custody since 30.07.2022. After completion of the investigation, the final report ('*challan*') has been presented before the trial Court. The charges have been framed. The conclusion of the trial will take some time.

4. It is further contended that the FIR was registered at the instance of the father of the prosecutrix whereas the prosecutrix and the petitioner were in a relationship. On the alleged date of occurrence, the prosecutrix just came out of her home to meet the petitioner and no physical relationship was made. However, in the meantime, the family members of the prosecutrix came to know about the said fact and they got registered the false FIR. It is also contended that the prosecutrix had executed an affidavit dated 24.09.2022 (Annexure P-2) verifying about her love affair with the petitioner.

5. A status report, dated 13.02.2024, by way of an affidavit of Sh. Veer Singh, HPS, Deputy Superintendent of Police, City, Karnal, along with a copy of the birth certificate, the statement of the victim under Section 164 Cr.P.C. copy of the MLR of the victim and a statement of the victim as PW-1 as Annexures R-1 to R-4, has already been filed by learned State counsel. The same is taken on record.

6. Learned counsel for the State has opposed the present petition, on the ground of gravity of allegations and submitted that the report of the FSL is still awaited. However, this fact has been confirmed that the report under Section 173 Cr.P.C. has already been presented and charges under Section 6 of the POCSO Act 2012 and Section 376 (2) (n) and 506 of the IPC have been framed against the petitioner.

7. I have considered the aforesaid submissions.

8. During the investigation, the date of birth of the victim has been verified as 10.09.2005, as per the date of birth certificate (Annexure R-1). The victim has supported the prosecution case even as per her statement recorded on 30.07.2022 under Section 164 Cr.P.C. (Annexure R-2). As per the Medical Examination Report (Annexure R-3), at the time of her medical examination on 30.07.2022, she has given the history of sexual assault on 21.07.2022. The FSL

trial (Annexure R-4), she stated that she has repeatedly sexually abused by the petitioner and also alleged that his co-accused Raju, who is a neighbour of the petitioner was also present at that time and he recorded the occurrence by making a video. Thereafter, the petitioner had threatened her to make the said video viral and called her again and again to the Government school of their village and committed wrong act without her consent.

9. Keeping in view the aforesaid facts and circumstances of the present case, especially in view of the fact that the prosecutrix who is minor, aged about 16 years of age, was repeatedly sexually abused by the petitioner without her consent and under the threat of making the video viral, it is not a fit case at this stage to release the petitioner on bail, especially in view of the fact that the report of the FSL examination is still pending.

10. Consequently, the petition stands dismissed.

11. However, it is made clear that nothing observed hereinabove will be taken to be an observation on the merits of the case for or against the petitioner, which would be gone into by the trial Court wholly on the basis of evidence led/gathered before it.

12. Any pending miscellaneous application (s) if any, also shall stand disposed of.

08.04.2024

Janki/nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No