

223 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-65363-2023
Date of decision: 7th March, 2024

Prince @ Amarbir Singh

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Parvesh jaglan, Advocate for the petitioner.
Ms. Nidhi Garg, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Police Station	Sections
34	Safidon, District Jind, Haryana	120-B, 313, 315, 34, 376, 376(2)(n), 376(2) (I) and 506 of Indian Penal Code, 1860 (for short ‘IPC’) and Sections 6 and 17 of Protection of Children from Sexual Offences Act, 2012 (for short ‘POCSO Act’)

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 12.02.2023, on the basis of statement recorded by the prosecutrix ‘K’ (name withheld) alleging therein that one Diya wife of Jai Singh was residing in her neighbourhood. She often used to visit her house. The present petitioner also used to visit the house of Diya. Diya had introduced the prosecutrix with the

petitioner and had also given his mobile phone number to the prosecutrix and her mobile number to the petitioner. They had started having conversation with each other on phone. About 4-5 months back, the petitioner called her in the godown existing in the backside of her house and committed rape upon her while extending threat to kill her, if she disclosed about the incident to anybody. She was ravished by him for 2-3 times again subsequently. She further alleged that the petitioner had made her talk to co-accused Mohit, who is his friend on phone and after sometime, the said Mohit also subjected her to forcible sexual intercourse in the godown during night time. She had become pregnant. When she disclosed about this fact to the petitioner, he got her consume some medicine. She was compelled by the petitioner to have physical relations with the co-accused Nasib. She had suffered an abortion on 11.02.2023 on consuming the tablets which were given to her by the co-accused. Seeing her condition, her grand-mother had taken her to Government Hospital, wherein she had disclosed all the facts to her.

3. As per the allegations, on the basis of her statement, FIR was registered. After registration of the FIR, investigation proceedings were initiated. The statement of the prosecutrix under Section 164 of Cr.P.C. was recorded. The co-accused Nasib was arrested on 01.03.2023. He was joined into investigation and suffered disclosure statement admitting his involvement in the act of subjecting the victim to rape and demarcated the place of occurrence. The co-accused Mohit was arrested on 14.05.2023 and he too suffered disclosure statement. The present petitioner was arrested on

02.09.2023 and he too was joined into investigation. He too suffered disclosure statement. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented against the accused. Supplementary challan was presented against the present petitioner and presently, the petitioner alongwith co-accused is facing trial for offences punishable under Sections 376(1), 376(2)(n), 313 and 315 of IPC and Section 6 of POCSO Act. He had moved an application for grant of bail before the learned trial Court which was dismissed vide order dated 12.12.2023.

4. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. He is in custody since 08.09.2023. The prosecutrix and her grand-mother who were star witnesses of the case have not implicated the petitioner in the subject crime. The trial is likely to take time. No useful purpose would be served by keeping him in custody. It is therefore, urged that petition deserves to be allowed and he deserves to be extended benefit of bail.

5. Status report has been filed by respondent-State, as per which, there are serious and specific allegations against the petitioner. He had himself repeatedly ravished the prosecutrix and then also joined the co-accused in the act of committing rape upon the prosecutrix thereby abetting the commission of offence of aggravated penetrative sexual assault upon the minor prosecutrix as well. In her statement recorded under Section 164 of Cr.P.C., the prosecutrix had reiterated the allegations in the FIR. It is further

submitted that the FSL report is still awaited. There are chances of petitioner's absconding if extended benefit of bail and therefore, it is argued that the petition does not deserve to be allowed.

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

7. The allegations against the petitioner are that he had subjected the prosecutrix who was a minor girl aged about sixteen years at the time of occurrence, to acts of aggravated penetrative sexual assault several times and also abetted the commission of same acts by the co-accused who are facing trial alongwith him. However, the petitioner has placed on record Annexure P-2 and P-3, which are copies of statements recorded by the prosecutrix and her grand-mother respectively before the learned trial Court. A perusal of these statements reveals that neither of them have supported the case of prosecution while stepping into the witness box and by taking a U-turn have totally resiled from the version as given earlier. The prosecutrix is shown to have stated that neither the petitioner nor any other person committed any wrong act with her. Her grand-mother PW-3 has also exonerated the present petitioner and co-accused from the allegations as levelled against them. Keeping in view the nature of evidence which has come on record in the form of testimonies of these material witnesses, the period of incarceration of the petitioner and the attendant facts and circumstances of the case, I am of the considered opinion that the petition deserves to be allowed. Hence, the petition is allowed, the petitioner is ordered to be released on bail subject to

his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

8. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
9. Since the main petition has been allowed, pending application if any is rendered infructuous.

7th March, 2024

Parveen Sharma

1. Whether speaking/ reasoned

2. Whether reportable

[MANISHA BATRA]

JUDGE

:

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Yes / No

Yes / No