

2024:PHHC:078512



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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-71-2024 (O&M)
Date of decision: 31.05.2024

Anil Kumar @ Khandu...Appellant

Versus

State of Haryana and another...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Lalit Rishi, Advocate
for the appellant.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Vinod Bhardwaj, Advocate
for respondent No. 2/complainant.

MANISHA BATRA, J. (Oral)

1. The present appeal has been filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*for short ‘the SC/ST Act’*) by the appellant challenging the order dated 17.08.2023 passed by the learned Additional Sessions Judge, Special Court, Katihal (*hereinafter referred to as ‘the trial Court’*), whereby an application filed by him under Section 439 Cr.P.C. for grant of regular bail in case arising out of FIR No. 232 dated 02.05.2022, registered under Sections 323,

366, 376(2)(n), 506 of IPC and Section 3(2)(v) the SC/ST Act at Police Station Pundri, District Kaithal, had been dismissed.

2. Brief facts relevant for the purpose of disposal of this appeal are that the aforementioned FIR was registered on the basis of a written complaint filed by the complainant 'P' (*name withheld*) alleging therein that the victim 'M' (*name withheld*), who was her minor daughter, had left their house on 01.05.2022 without informing anyone. It was also found that she had taken along with her the Aadhar Card and her detailed marksheet for 8th standard. Investigation proceedings were initiated. On suspicion, the co-accused Aman and three more persons, namely Suresh, Vishal and Balkar, were joined into investigation. On 17.05.2022, call detail record of the present appellant, who was also a suspected person, was obtained. On 31.05.2022, the victim was produced by the complainant before the police. Her statement under Section 164 of Cr.P.C. was recorded, wherein she disclosed that she was having an affair with the accused Aman, who had been committing rape upon her for the last more than one and half years and then he had pressurized her to go with the present appellant and otherwise threatened to kill her three sisters. Co-accused Aman had borrowed a sum of Rs. 2 Lakhs from the appellant. She stated that out of fear, she had gone with the appellant, who kept her with him for a period of more than one month and had repeatedly committed rape upon her. Her medical examination was conducted. Offences under Section 3(2)(v) of SC/ST Act, 323, 366, 376(2)(n), 506 and 120-B of IPC were added and offence under Section 346 of IPC was deleted. Co-accused Aman was arrested on 25.07.2022, whereas the present appellant was arrested on 30.08.2022. He was interrogated and in his disclosure statement, he admitted his involvement in committing rape

upon the prosecutrix. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented and presently, the appellant and co-accused are facing trial for commission of aforementioned offences. The appellant had moved an application for grant of regular bail before the trial Court but the same had been dismissed, vide impugned order dated 17.08.2023.

3. The present appeal has been filed by the appellant on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. He was not named in the FIR. He is in custody since 30.08.2022. The victim has since been examined and, therefore, there are no chances of his intimidating her. The trial is likely to take time. His further detention would not serve any useful purpose. His wife had died on 30.06.2021 and his two minor children are left unattended and his presence is required for taking care of them. With these broad submissions, it is argued that the impugned order is liable to be set aside; the appeal deserves to be accepted and the appellant deserves to be released on bail.

4. Status report has been filed by the respondent-State. Learned State counsel, assisted by learned counsel for the complainant, in terms of the status report, has argued that there are serious and specific allegations against the appellant, who had taken the custody of the victim from co-accused Aman and had repeatedly committed rape upon her, while keeping her in a house in village Fazilpur. The victim has fully supported the prosecution case while appearing before the trial Court. There are chances of the appellant's absconding, if extended benefit of regular bail. It is, therefore, argued that the appeal 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. As per allegations in the FIR, the petitioner had taken the custody of the victim from co-accused Aman and while confining her for a period of more than one month, he had repeatedly committed rape upon the victim, who belongs to scheduled caste. The victim has since been examined and has supported the case of the prosecution. The allegations against the appellant are grave and serious in nature. The trial is going on at proper pace and there is nothing on record to show that there would be any undue delay in conclusion of the same. The period of incarceration simplicitor is not a ground to extend benefit of bail to the appellant. Keeping in view the gravity of allegations levelled in the FIR against the appellant, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the trial Court has committed no error in declining the benefit of bail to the appellant and, therefore, the impugned order does not warrant any interference and the appeal is liable to be dismissed. Accordingly, the same is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present appeal and the same shall not be construed as an expression of opinion on the merits of the case.

31.05.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>