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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-146-2025 (O&M)
Date of decision: 02.05.2025

Dharmender alias Hasmukh

...Appellant

VERSUS

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Kushager Goyal, Advocate and
Mr. Himanshu Setia, Advocate,
for the appellant.

Mr. Ayuwan Singh, AAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is an appeal filed by the appellant challenging the order passed by the learned Additional Sessions Judge, Fast Track Special Court, Faridabad dated 09.07.2024 vide which the application for grant of regular bail to the appellant was dismissed.

2. Learned counsel appearing on behalf of the appellant submitted that it is a case where the allegations against the appellant were made by the prosecutrix, who was of the age of 17 years and 9 months at the time of occurrence and the relationship was a consensual relationship and because of the parents of the prosecutrix, the present FIR was got lodged. He further submitted that there have been false allegations made against the appellant with regard to developing physical relations and also clicking of some photographs



but nothing was found at the time of investigation pertaining to clicking of any photographs. He further submitted that even otherwise also the photographs which have been annexed alongwith the present petition as Annexure P-4 do not amount to any obscenity and rather it shows consensual relationship between the appellant and the prosecutrix. He further submitted that the prosecutrix has already been examined and the appellant is in custody for 1 year and 5 months and considering the aforesaid facts and circumstances and also the fact that the prosecutrix was only short of 3 months of attaining the age of majority but the parents of the prosecutrix were not inclined to accept their relationship, he may be considered for the grant of regular bail and the order dated 09.07.2024 passed by the learned Additional Sessions Judge, Fast Track Special Court, Faridabad may be set aside. He also submitted that so far as the invocation of the provision of SC/ST Act is concerned, the same would not be applicable in the present case because there is no allegation of making any caste based remarks or imputations regarding caste but it has been invoked only in view of the fact that the prosecutrix belongs to Scheduled Caste.

3. On the other hand, Mr. Ayuwan Singh, AAG, Haryana submitted that it is correct that the appellant is in custody for 1 year and 5 months and material witnesses have been examined including the prosecutrix. He further submitted that the age of the prosecutrix at the time of occurrence was 17 years and 9 months. So far as the photographs which have been alleged to be clicked by the appellant which are mentioned in the FIR are concerned, he submitted that no such photograph or mobile of the appellant has been sent for any testing to the Forensic Science Laboratory during investigation.

4. I have heard the learned counsel for the parties.



5. It is a case where the appellant is in custody for 1 year and 5 months. As per the learned counsels for the parties, the prosecutrix has been examined and the age of the prosecutrix was 17 years and 9 months at the time of occurrence, which was only 3 months short of attaining the age of majority and marriageable age. Learned counsel for the appellant has referred to the photographs (Annexure P-4) to show that it was a consensual relationship between the appellant and the prosecutrix and there are no obscene photographs. Furthermore, it is not the case of the learned State counsel that in case the appellant is released on bail, then he may influence any witness or may tamper with evidence or may flee from justice.

6. Consequently, the present appeal is allowed. The order dated 09.07.2024 passed by the learned Additional Sessions Judge, Fast Track Special Court, Faridabad is hereby set aside. The appellant shall be released on regular bail, if not required in any other case, subject to his furnishing bail bonds/surety bonds to satisfaction of the learned trial Court/Chief Judicial Magistrate concerned.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present appeal only.

02.05.2025*rakesh***(JASGURPREET SINGH PURI)****JUDGE**

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