



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28640-2024 (O&M)
Reserved on: 18.12.2024
Date of Pronouncement:- 15.01.2025

GAURAV KUMAR
Vs.
STATE OF PUNJAB
.....PETITIONER
...RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN
(As on the reserved date)

Present: Mr. Rishu Mahajan, Advocate,
for the petitioner.
Mr. Malkit Singh Dhillon, D.A.G., Punjab.
Mr. L.S. Sidhu, Advocate,
for the complainant.

HARPREET KAUR JEEWAN, J.

CRM-29598-2024

Application for placing on record the orders, as well as statements, as Annexures P-3 to P-6 with the main petition is allowed, as prayed for. The aforesaid documents are taken on record as Annexures P-3 to P-6 subject to all just exceptions. Office to tag the same at appropriate place.

CRM-48656-2024

Application for placing on record the cross-examination of PW-1 and PW-2 as Annexures P-7 and P-8 with the main petition is



allowed, as prayed for. The aforesaid cross-examinations are taken on record as Annexures P-7 and P-8, subject to all just exceptions. Office to tag the same at appropriate place.

CRM-M-28640-2024

1. This is the 2nd petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner-Gaurav Kumar in case bearing FIR No. 18, dated 27.01.2023, under Sections 376/341/506 of the IPC and Sections 3/4/11/6 of the Protection of Children from Sexual Offences, Act, 2012 (for short '*the POCSO Act*'), registered at Police Station Division No. 8, District Jalandhar. The first petition was dismissed as withdrawn, vide order dated 06.07.2023 passed by the co-ordinate Bench of this Court in CRM-M-30796-2023.

2. As per the version of the prosecution, the prosecutrix aged about 15 years (date of birth 16.10.2005) was a co-student of Neeraj-the brother of the petitioner. As per the version of the prosecutrix, the brother of the petitioner encouraged the prosecutrix to be friend with the petitioner. At that time she was not aware about the consequences and was not aware as to what would happen further with her. The prosecutrix was invited by Neeraj (brother of the petitioner) in his house. She was offered a cold drink and she was unaware that it has been spiced with a drug. She became unconscious. The petitioner had been threatening the prosecutrix to release her photographs and the video to her family members and to ruin her reputation. The petitioner is alleged to have repeatedly raped the prosecutrix against her wishes. Upon refusal by the prosecutrix, the petitioner threatened her to throw acid on her face and disfigure her. The



mother of the prosecutrix confronted the mother of the petitioner and ultimately, on 18.01.2023 the petitioner sent a video to the brother of the prosecutrix through an 'Instagram ID' named "Jobanpreet" and added vulgar comments "I had sex" etc. Ultimately the matter was reported to the police and the present FIR was registered.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. There is a long delay and as per the version in the FIR, the prosecutrix has admitted her relationship but during all these years she never raised any hue and cry. It is contended that victim has alleged in the FIR that she was having an affair with the petitioner but later on the petitioner has been involved in the false FIR. The petitioner is in custody and the statement of the prosecutrix has been recorded. There is no apprehension of tampering with the prosecution evidence.

4. Learned counsel for the State, as well as counsel for the complainant, have opposed the present petition, on the ground of gravity of the allegations. However, he has confirmed that the petitioner is in custody since 29.01.2023, as per the custody certificate and he is not having any other criminal antecedents. This fact has also been confirmed that statement of the prosecutrix has been recorded during the trial.

5. I have considered the aforesaid submissions and perused the paper-book.

6. The petitioner is alleged to have repeatedly committed the offence of "Penetrative Sexual Assault" and the age of the victim was below 16 years at the time of the alleged occurrence. Apart from the said allegations there are also allegations that the petitioner had been subjecting



the prosecutrix to give consent for repeated acts on the basis of having obscene photographs and the videos. The said threat is proved as ultimately the petitioner is alleged to have posted a picture with the vulgar comments on the “social media-Instagram”. In the statement of the prosecutrix recorded under Section 164 Cr.P.C (Annexure R-1), she has further explained that the petitioner used to threaten the prosecutrix to write a suicide note and falsely implicate her as well as her family members. Apart from this, the prosecutrix is allegedly threatened to disfigure her face by putting acid.

7. Keeping in view the long period in which the prosecutrix was allegedly coerced; and the gravity of the offence for which the minimum punishment is 20 years for having “Penetrative Sexual Assault” upon a victim, who is below the age of 16 years, I do not find that it is a fit case to release the petitioner on regular bail.

8. Consequently, the petition stands dismissed.

9. It is made clear that nothing observed hereinabove will be taken to be an observation on the actual merits of the case, which would be taken up by the learned trial Court wholly on the basis of evidence led/gathered before it.

10. Pending miscellaneous applications, if any, also stand disposed of.

January 15, 2025
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No