



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

319

CRM-M-44583-2024

Date of decision: 16th January, 2025

Mayank

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Balraj Gujjar, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The instant one is second petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail as filed by the petitioner in case bearing FIR No. 99 dated 18.02.2023 registered under Sections 506 and 328 of IPC and Section 4 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') at Police Station Kheripul, Faridabad District Faridabad (Haryana). His previous petition bearing CRM-M-8523-2024, had been dismissed by this Court vide order dated 21.05.2024.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the allegations that on 12.08.2022, the petitioner had invited the victim who was a twelve years old girl at that time, for celebrating his birthday and on that pretext, he had taken her to a local OYO hotel and committed act of



aggravated penetrative sexual assault upon her. She was threatened by the petitioner to not to disclose about the incident to anybody. She mustered courage to disclose about the same to her parents much later. Matter was reported to the police. The petitioner was arrested on 19.02.2023 and is presently, facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner that there is a substantive change in the circumstances of the case ever since the date of dismissal of the previous petition as filed by the petitioner since the parents of the victim who were material witnesses of the prosecution case have been given up by the prosecution on the plea that they have been won over by the accused and their names have been ordered to be struck off from the list of witnesses. Moreso, the period of incarceration of the petitioner stands extended and as on date, he has undergone a period of one year and about eleven months in custody. It is submitted that on both these grounds, the petitioner deserves to be released on bail since the trial is likely to take substantial time as only a few witnesses have been examined by now and there are no chances of his being convicted. Accordingly, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned Assistant Advocate General, Haryana has argued that the victim who was a girl of tender age at the time of occurrence, has fully supported the prosecution version in her statement recorded before the Court. While deciding the previous petition of the petitioner, all the material circumstances had been taken into consideration. Mere extended period of incarceration or giving up of names of parents of the prosecutrix, cannot be considered to be sufficient ground for extending benefit of bail to



the petitioner. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

6. The previous petition for grant of bail as filed by the petitioner was dismissed on 21.05.2024, keeping in view the gravity of allegations as levelled against the petitioner, by passing a detailed order. The petitioner is now seeking his release on bail on the plea that parents of the prosecutrix have been given up by the prosecution on the ground that they have been won over by the accused. In the considered opinion of this Court, benefit of this fact cannot be given to the petitioner, since the prosecutrix herself stands examined and fully supported the prosecution case. The previous petition of the petitioner was dismissed while taking this fact into consideration. Moreso, the petitioner has failed to show any substantial change in the circumstances/fact situation from the date of dismissal of his previous petition. It is well settled that the petitioner must show some substantial change in the circumstances and it is not sufficient to show a mere superficial or ostensible change. There must be some change in fact situation or in law requiring the earlier view to be interfered with. It is equally well settled that when successive bail petitions come before the Court, the Court should be very cautious while considering the same. Successive bail petitions can be entertained by the Court when some substantial change is established by the accused thereby making him entitled for grant of bail. Reference in this regard can be made to *State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 Supreme Court, 2292*, wherein it was



observed so and it was further held that the Court should not pass an order of release of an accused on bail in successive bail application merely establishing some cosmetic change between time gap of two applications. There must be some drastic change during the period between two applications. Reference can also be made to *Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and another (2004) 7 SCC 528*, wherein it was observed by Hon'ble Supreme Court that where the offence alleged against an accused is grave, bail cannot be granted only on the ground of long incarceration.

7. Keeping in view the nature and gravity of the offence, in my considered opinion, it is not a fit case to enlarge the petitioner on bail, especially in view of the fact that no drastic or material change in the circumstances has been made out. In view of the discussion as made above, but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

16th January, 2025

Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No