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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-47450-2024 (O&M)
Decided on : 29.01.2025

DEEPAK ALIAS CHOR

. . . Petitioner

Versus

STATE OF HARYANA

. . . Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Shikar Goel, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

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KIRTI SINGH, J. (Oral)

1. The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.754 dated 07.09.2023 under Section 376, 450, 323 and 506 of IPC and Section 6 of POCSO Act, registered at Police Station Camp Palwal, District Palwal.

2. The contents of the above-mentioned FIR are reproduced herein below :-

> *"To SHO, PS:- Camp Palwal,Dist. Palwal. Sir, it is stated that I, Ramnarayan, son of Shri Lalaram and am a permanent resident of New Basti. Sallagarh, Palwal. I have three children, one of whom is a daughter and her name is Swati and her date of birth is 12.09.2005. For the past few days, she was suffering from seizures and dizziness. We admitted her to ESIC Hospital, Faridabad for the treatment. During the treatment, we came to know that she was found to be 4 months pregnant. My daughter is mentally retarded and she is physically handicapped from hands and legs.*

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> *When I asked her personally, my daughter told me that all this has done to me by "Chor". My daughter calls Deepak son of Daulatram as Chor who is my brother's son. He had stolen money a few days ago, that is why my daughter calls him "Chor". The culprit should be given the harshest possible punishment for doing such a wrong thing to my daughter."*

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. The DNA of the fetus does not match with the petitioner, thereby, completely negating the prosecution's case. The prosecutrix who has been diagnosed with 90-95% mental retardation, is incapable of providing a reliable testimony, and the state also failed to produce the psychiatric report of the prosecutrix and did not seek expert evaluation regarding her capacity to depose. Further, the prosecution has failed to establish the date, time, and location of the alleged offense. The petitioner submits that there is a motive to falsely implicate him due to a family dispute over property.

4. *Per contra*, learned State counsel, relying upon the reply dated 27.11.2024, submits that the petitioner was arrested on 08.09.2023. During interrogation, the petitioner suffered a disclosure statement, admitting to have committed the crime and identified the place of occurrence. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 01 year, 04 months and 21 days and there are two other criminal cases registered against him. He on instructions from the concerned investigating officer submits that the charges were framed on 05.01.2024 and the trial of the case is at fag end as all of the prosecution witnesses have been examined.

5. Heard the rival submissions made by learned counsel for the parties and perused the record.

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6. Admittedly, the petitioner has undergone actual custody of 01 year, 04 months and 21 days and there is another case registered against him. There are serious allegations leveled against the petitioner. All the 30 prosecution witnesses have been examined before the learned trial Court and thus, it is apparent that the trial is progressed and is at advanced stage and is nearing conclusion.

7. Recently, the Hon'ble Supreme Court in **Criminal Appeal No.1511 of 2024 titled as Dablu Kuju Vs. State of Jharkhand decided on 12.03.2024,** observed as under:-

> *"The appellant-accused, by way of the present appeal has challenged the impugned judgment and order dated 17.01.2023 passed by the High Court of Jharkhand at Ranchi in B.A. No.11895 of 2022, whereby the High Court has dismissed the said application seeking his release on bail in respect of the FIR being Sukhdeonagar P.S. Case No.-238/2022 dated 30.05.2022 registered for the offences under Sections 302, 120B/34 of IPC and Section 25(1-B) A/26/27/35 of the Arms Act.*
>
> *3. During the course of arguments, it was apprised to the Court that the trial is at the fag end and almost all the witnesses have been examined by the prosecution except one witness.*
>
> *4. In view of the above, we are not inclined to release the appellant on bail, more particularly, when the trial is at the fag end."*

8. Keeping in view the gravity of the offence and without commenting upon the merits of the case, this Court is of the considered view that at this point of time when the trial is nearing conclusion no case is made out for grant of regular bail to the petitioner. Accordingly, the present petition is dismissed.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

29.01.2025
Kavita

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

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