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

**CRA-S No.3528 of 2024
Date of Decision: 19.02.2025
Reserved on: 06.02.2025**

Ramesh Yadav @ Golu ... Appellant

Versus

State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Nitish, Advocate,
for the appellant.

Mr. Neeraj Poswal, AAG, Haryana and
Mr. Anil Kumar Chahal, DAG, Haryana,
for the respondent-State.

MANISHA BATRA, J.

1. The instant appeal has been filed against the orders dated 17.01.2023 passed by the Court of learned Additional Sessions Judge, Gurugram in case arising out of FIR No.100 dated 10.06.2021 initially registered under Sections 363 of IPC, whereby an application filed by the appellant for grant of regular bail had been dismissed.

2. Briefly stated, the facts relevant for the purpose of disposal of this appeal are that the aforementioned FIR had been registered on the basis of complaint lodged by the complainant "A" (name withheld) alleging therein that the victim "M" (name withheld) who was his 14 years' daughter, had left home on 08.06.2021 without intimating anyone and was not traceable. Initially, a case under Section 363 of IPC was registered. During the course of investigation, the complainant himself

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produced the victim before the police on 26.06.2021. Her statement was recorded and on the basis of the same, offences under Sections 406 and 506 of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”) were added. Her statement under Section 164 of Cr.P.C. was also recorded and then offences under Section 328 of IPC and Section 25 of Arms Act, 1959 (For short Act, 1959”) and Sections 3 (2) (v), 3 (1) (s) and 3 (1) (r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (For short “SC&ST Act”) were added. Later on Section 25 of the Act, 1959 was deleted and Sections 201 and 34 of IPC were added. The victim was medically examined. The appellant was arrested on 07.09.2021. Presently, he along with the co-accused is facing trial for commission of the aforementioned offences. He moved an application for grant of regular bail before the trial Court which was dismissed vide order dated 17.01.2023.

3. It was argued by learned counsel for the appellant that the impugned order is not sustainable in the eyes of law as while passing the same, the learned trial Court ignored the fact that there was delay of two days in reporting the matter to the police which had not been explained. No semen could be detected on the vaginal and cervical swab of the victim as per the FSL report and hence, there is no forensic evidence to connect the appellant with the offence of subjecting the victim to offence of aggravated penetrative sexual assault. The victim had solemnized marriage with the co-accused Partap. A false story of committing rape upon the victim had been planted upon him. The appellant is in custody since 07.09.2021. The victim

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stands examined. There are no chances of his intimidating the witnesses. He is in custody since long. The trial will take substantial time. His further incarceration would not serve any purpose. Therefore, it was urged that he deserves to be released on bail.

4. The respondent-State has filed written response to the grounds as taken in the appeal. Learned State counsel had argued that there are serious and specific allegations against the appellant. He along with the co-accused had kidnapped the minor victim and had committed offence of aggravated penetrative sexual assault upon her. The victim has since been examined and has supported the prosecution case. He was also named in her statement recorded under Section 164 of Cr.P.C. The trial is going on at a proper pace and there is nothing on record to suggest that there would be any undue delay in conclusion of the same. With these broad submissions, it was urged that the appeal is liable to be dismissed.

5. Learned counsel for both the parties were heard at considerable length.

6. The appellant along with the co-accused is alleged to have kidnapped the minor victim and is further alleged to have ingested some intoxicating substance to her and then about committing rape upon her. The victim took his name in her statement recorded under Section 164 of Cr.P.C. and as submitted by learned State counsel even in her sworn deposition, she has supported the prosecution case. There are serious allegations against the appellant. Keeping in view the gravity thereof, the quantum of sentence

which the conviction may entail and the attendant facts and circumstances

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but without meaning to make any comment on the merits of the case, I am of the considered opinion that there is no illegality or infirmity in the impugned order and, therefore, the same does not deserve to be set aside. Accordingly, finding no ground to allow the appeal, the same is dismissed.

19.02.2025
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(MANISHA BATRA)
JUDGE

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