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

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CRM-M-55791-2024 (O&M)

Date of decision: 15.02.2025

Ajit Singh Bagga**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Naveen Siwach, Advocate
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition which has been filed by the petitioner seeking grant of regular bail in case bearing FIR No.25 dated 01.03.2019, registered under Sections 376, 328, 354-C, 506 and 120-B of the IPC (Sections 354-D, 376-D, 376(2)(n) of IPC and Sections 66, 66-D, 67-A of the Information Technology Act were added later on) at Police Station Mataur, District S.A.S. Nagar.

2. As per the allegations, the present petitioner as well as co-accused Jaswinder Pal Walia and Pawan Kumar, after introducing themselves as owners/partners of a Spa, had induced the prosecutrix to work there as a Receptionist and they had sexually exploited her. The petitioner, on the asking of co-accused Jaswinder Pal Walia, who had been blackmailing the prosecutrix, had committed rape upon the prosecutrix several times. The first petition of the petitioner seeking grant of regular bail, bearing number CRM-M-27704-2023 was dismissed by this Court by passing a detailed order

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on 09.02.2024. The operative part of the order dated 09.02.2024 reads as under:

“8. It is not disputed by the petitioner that he was the owner of Divine Spa. He has placed on record a Memorandum of Understanding-cum-Management Agreement shown to be executed on 26.04.2014, which shows that on the said date, he had assigned the business of the Spa to co-accused Pawan Jagwani and a resolution deal was also executed by him. As per own version of the petitioner, co-accused Jaswinder Pal Walia used to visit his Spa. It has also not been sepcifically denied by him that the present victim had been employed as a Receptionist in the above named Spa. The petitioner might have executed some Memorandum of Understanding, thereby creating release of his business in favour of the company run by co-accused Pawan Jagwani but it is not his claim that he had stopped going to the above named Spa or did not remain in contact with co-accused Jaswinder Pal Walia and Pawan Jagwani. Though, it is also clear from the allegations in the FIR that the victim, while making allegations that on the asking of Jaswinder Pal Walia, who had been blackmailing her, the present petitioner had also committed rape upon her a few times but neither the dates, month nor the place of occurrence when such acts were committed by the petitioner have been mentioned in the FIR. However, the statement of the victim is yet to be recorded. Only on the basis of the fact that exact date, month and year when the petitioner had ravished her, had not been mentioned in the FIR, it cannot be stated that a false case was lodged against the petitioner. The fact that there is delay in reporting of the matter to the police and there is any reasonable explanation with regard to the same or not, has to be

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looked into by the trial Court, while deciding trial initiated against the petitioner. The apprehension expressed by learned State counsel that there are chances of the petitioner's intimidating the witnesses cannot be ruled out. The allegations against the petitioner are quite serious. Gravity of the offence is one of the prime considerations to grant/deny benefit of the bail to an accused. Keeping in view the serious nature of offences, which have been alleged against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that the petitioner does not deserve to be given concession of regular bail at this stage. Hence, the petition stands dismissed."

3. Learned counsel for the petitioner has argued that the present petition has been filed on the ground that in the meantime, the prosecutrix stands examined before the learned trial Court and the petitioner is in extended period of incarceration. It is further argued that since the conclusion of trial is likely to take time, the petitioner may be enlarged on regular bail. Therefore, it is urged by him that the petition deserves to be allowed.

4. *Per contra*, learned Assistant Advocate General, Punjab has vehemently opposed the prayer of the petitioner by arguing that there are serious and specific allegations against the petitioner. The prosecutrix has supported the prosecution version. The previous petition as filed by the petitioner was dismissed by passing a detailed order by this Court by taking into consideration the contentions raised by both sides. It is submitted that no new change amounting to substantial change in the circumstances has been pointed out. The mere extended period of incarceration alone is not sufficient

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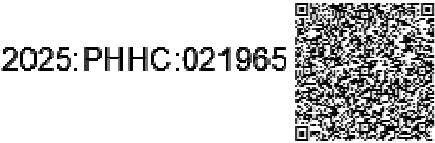


to grant benefit of bail to the petitioner. Therefore, it is urged that the petition does not deserve to be allowed.

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

6. The previous petition as filed by the petitioner for grant of regular bail had been dismissed vide order dated 09.02.2024. The instant one has been filed alleging substantial change in circumstance as the prosecutrix stands examined. It is well settled proposition of law that when successive bail applications come before the Court, the Court should be very cautious while considering the same. Successive bail applications 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. After hearing the contentions as raised by learned counsel for the petitioner, I am of the considered opinion that no substantial or drastic change



from the date of dismissal of the previous petition as moved by the petitioner has been pointed out or made out from the pleas taken by the petitioner as no doubt the prosecutrix has been examined but it should not be forgotten that she has supported the prosecution version. A copy of her sworn deposition has been placed on record by the petitioner himself, a perusal of which, shows that she had categorically stated that the petitioner along with co-accused had raped her. More so, merely the extended/prolonged period of incarceration or examination of some material witnesses is not a ground to extend any such benefit. There are serious and specific allegations against the petitioner. The trial is also going on at a good pace and there is nothing to show that there would be any undue delay in conclusion of the same. 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, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

8. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

15.02.2025

(MANISHA BATRA)
JUDGE

Waseem Ansari

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