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

267

**CRA-S No.3957 of 2024
Date of Decision: 24.01.2025**

Anil

... Appellant

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Anmol Sharma, Advocate,
for the appellant.

Mr. Rajiv Sidhu, DAG, Haryana,
for the respondent-State.

None for respondent No.2.

MANISHA BATRA, J. (Oral)

1. The instant appeal has been filed by the appellant under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (For short 'SC&ST Act') against the order dated 08.10.2024 passed by the Court of learned Additional Sessions Judge, Panipat in case arising out of FIR No.212 dated 20.06.2021 registered under Sections 323, 328, 376 (2) (n), 376-D and 506 of IPC (offence under Section 376-D of IPC was deleted and offence under Section 3 of the SC&ST Act was added) at Police Station Israna, District Panipat, whereby the third application for grant of regular bail as filed by the

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appellant before the learned trial Court had been dismissed.

2. The aforementioned FIR had been registered against the appellant on the basis of complaint lodged by the prosecutrix (name withheld) who is a member of Scheduled Caste community, on the allegations that she was introduced with the appellant in the year 2017. He had been calling her telephonically. In the month of March 2018, on the insistence of the appellant, she had gone to meet him. The appellant had taken her to some hotel on the pretext of having tea with her. She had become unconscious on consuming the tea so offered and taking advantage of this fact, the appellant had ravished her. Subsequently, he disclosed that he had prepared a video and had taken her photographs and on the pretext of making the same viral, he had started maintaining physical relations with her. Then he made promise to marry her and on the basis of that promise also, he subjected her to acts of sexual intercourse. He had forcibly committed rape upon her again in August 2018 and even forced her to have physical relations with his friend. After registration of FIR, investigation proceedings were initiated. The appellant was arrested and presently, he is facing trial for commission of the aforementioned offences.

3. Three bail applications were filed by the appellant before the trial Court which had been dismissed. Previously, he had filed Criminal Appeal bearing No.CRA-S-356-2023 before this Court challenging order of dismissal of the bail application by trial Court. The said appeal had been dismissed on 28.02.2024. Appeal bearing No.CRA-S-1117-2024 as filed by

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the appellant before this Court had been dismissed as withdrawn vide order dated 08.04.2024. The appellant again filed an appeal bearing Nos.CRA-S-1833-2024 challenging the order dated 18.04.2024 whereby the second application for grant of regular bail of the appellant had been dismissed by the learned trial Court and this appeal was dismissed vide order dated 17.05.2024. Yet another appeal bearing No.CRA-S-3554-2024 had been filed by the appellant challenging the same order dated 18.04.2024 qua which Criminal Appeal bearing Nos.CRA-S-1833-2024 had been filed and the said appeal had also been dismissed.

4. It is argued by learned counsel for the appellant that the impugned order dated 08.10.2024 thereby rejecting the prayer made by him for grant of regular bail is liable to be set aside as the same is not sustainable in the eyes of law. The appellant is in custody for a period of over three years and seven months. The prosecutrix stands examined. Her statement proves that the ingredients for commission of offence under Section 3 of the SC&ST Act were not at all attracted. The allegation that she had been cheated by the appellant and he had committed rape upon her by making false promise to marry her, have also not been made out as against the appellant. Infact, it was a case of consensual sexual relationship between the appellant and respondent No.2. The prosecutrix has materially improved her version while testifying before the trial Court. Testimony of the manager of the hotel wherein the prosecutrix was allegedly subjected to rape by the appellant has also been recorded and falsifies her version. No medical

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evidence has been collected by the prosecution to connect the appellant with the offences of rape. No video or photograph had been recovered at the instance of the appellant. The trial is likely to take time. His further incarceration would not serve any useful purpose. Therefore, it is urged that he deserves to be extended benefit of bail. While concluding, it is argued that while passing the order dated 08.10.2024 the learned trial Court did not consider the above discussed facts and circumstances and committed a grave error. Hence, it is urged that the impugned order dated 08.10.2024 be set aside, the appeal be accepted and the appellant be extended benefit of regular bail.

5. The prosecutrix was impleaded as respondent No.2 and had been duly served but none appeared on her behalf.

6. Learned Deputy Advocate General, Haryana appearing on behalf of the respondent-State has argued, on the other hand, that there are serious allegations against the appellant. Three bail applications as filed before the learned trial Court and three appeals as filed against those orders have already been dismissed. The prosecutrix has been examined and has duly supported the prosecution version. There has been no substantive change in the circumstances ever since the date of dismissal of the previous appeals as filed by the appellant against the orders passed by the trial Court. There are chances that the appellant may abscond if extended benefit of bail. Therefore, it is urged that the appeal does not deserve to be allowed.

7. I have heard learned counsel for the parties at considerable

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length and have gone through the record.

8. As per the allegations, the appellant was acquainted with the prosecutrix in September 2017. He had insisted to meet her, had taken her to a hotel and then committed rape upon her after making her consume some intoxicating substance and taking advantage of her condition. As per the further allegations, he had started blackmailing the prosecutrix by extending threats that he had prepared her videos and photographs and to make them viral and continued maintaining physical relations with her from the year 2018 till June 2021. The prosecutrix stands examined as a witness before the trial Court and is shown to have supported the prosecution case. The plea as taken by the appellant that it was a case of consensual relationship and the prosecutrix was consenting party has to be decided by the learned trial Court on thorough assessment of the evidence produced before it and not at this stage by this Court. The allegations against the appellant are serious in nature. His three bail applications as filed by him had been dismissed before the learned trial Court. Four previous appeals as filed against those orders have been dismissed by this Court by passing detailed orders. There is no change in the circumstances except the fact that the cross-examination of the prosecutrix stands concluded. This fact cannot be considered to be a substantive change of such nature on the basis of which the appellant can be held entitled to be released on bail. Keeping in view the facts as discussed and enumerated above, I am of the considered opinion that no reasonable ground has been made out for setting aside the order dated 08.10.2024 as

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passed by the trial Court and for extending benefit of regular bail to the appellant. Accordingly, the appeal is dismissed.

24.01.2025
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(MANISHA BATRA)
JUDGE

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