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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRA-S-27-2025 (O&M)  
Date of decision: 20.02.2025

**Devanand Mishra**

...Appellant(s)

**versus**

**State of Haryana and Another**

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present:- Ms. Pallavi Babbar, Advocate, for the appellant.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

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**JASGURPREET SINGH PURI, J. (Oral)**

1. The present is an appeal filed by the appellant challenging the order dated 07.02.2024 passed by learned Additional Sessions Judge, Fast Track Special Court, Faribabad vide which the application for grant of regular bail to the appellant was dismissed in case arising out of FIR No.154 dated 10.11.2020, under Section 6 of the POCSO Act, 2012 and Section 3/33/89 of the SC/ST Act, 1989 (Amendment 2015), registered at Police Station Women Central, District Faribabad.

2. Status report has been filed by way of affidavit of Assistant Commissioner of Police, Old Faridabad by learned State counsel in the Court today and the same is taken on record.

3. A copy of the aforesaid status report has already been supplied to learned counsel for the appellant, who has stated that she has gone through the same.



4. Learned counsel appearing on behalf of the appellant submitted that present is a third successive appeal for grant of regular bail filed by the appellant before this Court. She submitted that it is a case where the FIR was lodged on 10.11.2020 against the appellant by alleging that he had committed rape upon the prosecutrix, who was stated to be of the age of about 15-16 years at that point of time and the appellant is stated to be a Pandit in a Mandir. She further submitted that it is a case where the prosecutrix has alleged that the appellant has committed rape upon her and thereafter, she became pregnant and delivered a child. She further submitted that as per the case of the prosecution itself and as per the aforesaid status report filed by the State, it has been so specifically mentioned in para No.10 that as per the report of FSL, Madhuban, the DNA sample of child of prosecutrix did not match with the DNA of the appellant. She further submitted that it has also come on the record even as per the prosecution that the prosecutrix was slightly mentally retarded and although she has supported the prosecution version before learned trial Court but so far as the alleged wrongful act committed by the appellant is concerned, DNA did not match and now the total period of incarceration of the appellant comes out to be 4 years, 3 months and 9 days, which is a very long period of incarceration.

5. Learned counsel submitted that only 10 prosecution witnesses have been examined out of total cited 27 prosecution witnesses and 17 prosecution witnesses are yet to be examined even as per the status report filed by the State. She further submitted that all the material witnesses including the prosecutrix and the father of the prosecutrix have already been examined and therefore, considering the long custody of the appellant and delay in trial, he may be considered for the grant of regular bail. She also submitted that so far as the



allegations of SC/ST Act are concerned, there are no allegations pertaining to any imputations levelled by the prosecutrix against anybody and the aforesaid provision was wrongly added by the State.

6. On the other hand, Mr. Gagandeep Singh Chhina, AAG, Haryana submitted that so far as the custody of the appellant is concerned, the same is correct that he is in custody for 4 years, 3 months and 9 days. While referring to para No.10 of the aforesaid status report filed by the State, he submitted that as per the report of the FSL, Madhuban, the DNA sample of the child of prosecutrix did not match with the DNA of appellant. He has however further submitted that the allegations against the appellant are serious in nature because he is a Pandit and the prosecutrix and her father were devotees and the appellant had committed rape upon the prosecutrix and thereafter, a child was also born. He further submitted that so far as the antecedents of the appellant are concerned, he has clean antecedents and he is not involved in any other case. While referring to the aforesaid status report filed by the State, he also submitted that there is an apprehension that in case the appellant is released on bail, then he may abscond from justice and therefore, he is not entitled for the grant of regular bail.

7. I have heard the learned counsels for the parties and have also perused the status report filed by the State.

8. The total custody of the appellant comes out to be 4 years, 3 months and 9 days. As per the aforesaid status report filed by the State and as per the learned counsels for the parties, only 10 prosecution witnesses have been examined out of total 27 cited prosecution witnesses and 17 prosecution witnesses are yet to be examined. As per the learned counsels for the parties, all



the material witnesses including the prosecutrix and the father of the prosecutrix have already been examined. It has been so specifically stated in the status report filed by the State that the DNA sample of the child which was delivered by the prosecutrix did not match with the DNA of the appellant. So far as the allegations of SC/ST Act are concerned, nothing was pointed out as to whether any imputations were levelled by the prosecutrix or not pertaining to invocation of SC/ST Act. As per the learned State counsel, the appellant has clean antecedents and he is not involved in any other case.

9. However, learned State counsel while referring to the aforesaid status report filed by the State submitted that the allegations against the appellant were serious in nature and there is an apprehension that in case the appellant is released on bail, then he may abscond from justice. On a query being raised to the learned State counsel as to on what material and on what basis such an argument has been advanced, to which he submitted that no such material has been stated in the aforesaid status report.

10. Therefore, this Court is of the considered view that although an objection has been raised by the learned State counsel that in case the appellant is released on bail, then he may abscond from justice but as to on what material and on what basis such an apprehension is there has not been stated anywhere. Be that as it may, the total custody of the appellant comes out to be 4 years, 3 months and 9 days, which is a long custody and only 10 prosecution witnesses have been examined out of total 27 cited prosecution witnesses. The DNA sample of the child of prosecutrix did not match with the DNA of appellant as per the status report filed by the State and therefore, considering the aforesaid



long custody of the appellant as aforesaid, this Court is of the considered view that the appellant deserves the concession of regular bail.

11. Consequently, the present appeal is allowed. The order dated 07.02.2024 passed by the learned Additional Sessions Judge, Fast Track Special Court, Faribabad, is hereby set aside. The appellant shall be released on regular bail, if not required in any other case, subject to his furnishing bail bonds/surety bonds to satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

12. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present appeal only.

**(JASGURPREET SINGH PURI)**  
**JUDGE**

**20.02.2025**

*rakesh*

*Whether speaking/reasoned* : *Yes/No*  
*Whether reportable* : *Yes/No*