

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

CRM-M No. 8632 of 2017(O&M)

Date of decision: 3.5.2017

Narinder Kaur

....Petitioner

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. S.P.S. Gill, Advocate for the petitioner.

Mr. Ankur Jain, AAG, Punjab.

REKHA MITTAL, J.

The petitioner prays for grant of regular bail in FIR No.89 dated 02.07.2016 under Sections 376, 120-B of the Indian Penal Code, 1860 (in short 'IPC') and 3, 4 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Sadar, Kharar.

Counsel for the petitioner has submitted that a false FIR has been registered against the petitioner as grand-mother of the complainant/prosecutrix lost her gold ornaments and she was naming the petitioner for the same that led to a fight between the petitioner and Maya Devi, grand-mother of the prosecutrix. It is further argued that as per the allegations raised by the prosecutrix, the petitioner had gagged her mouth by putting her hand but on the other hand it is alleged that she prepared a video of the illegal act of rape committed by Malkit Singh, thus, allegations are self-contradictory. Further argued that it has been alleged against the petitioner that she handed over clothes of the prosecutrix to the police which she was wearing on the day of occurrence but there is no such evidence in the shape of seizure memo on record. The last submission made by counsel is that the petitioner has a minor child and due to her

custody in the jail, the child is suffering. In addition, it is submitted that as the prosecutrix has already been examined before the Court, release of the petitioner on bail would not create apprehension that she would tamper with prosecution evidence.

Counsel for the State has opposed the prayer for bail with the submission that in view of gravity of allegations levelled against the petitioner who called the prosecutrix to her house where the main accused was already present, sent her to a room and bolted it from outside in order to facilitate Malkit Singh's committing rape upon the prosecutrix, she is not entitled to be released on bail.

I have heard counsel for the petitioner and perused the paper-book.

The Court below has noticed in para 4 of the order dated 24.08.2016 that the prosecutrix resides with her family consisting of three sisters, two brothers and father Hari Gopal. Jugal Kishore, paternal uncle and Maya Devi, grandmother of the prosecutrix also reside with them. Adjoining to their house, Gurjit Singh son of Gurpal Singh son of paternal aunt of the prosecutrix resides with his family. Narinder Kaur (petitioner herein) in the absence of her other family members called the prosecutrix to her house on the pretext of taking care of her son Ekam. When the prosecutrix reached courtyard of the house of Narinder Kaur, she took her inside a room where Malkit Singh was already present. Malkit Singh and Narinder Kaur took the prosecutrix to the last room of the house and threw her on the bed. Malkit Singh removed her clothes, Narinder Kaur closed her mouth with her hands and thereafter Malkit Singh committed rape with the prosecutrix and Narinder Kaur prepared video of the same. The

complainant became unconscious and when she gained consciousness, she disclosed the incident to her grandmother and father. The prosecutrix appeared in the witness box, narrated her tale of woe by reiterating the version raised at the first available opportunity. She has categorically denied the suggestion that few days prior to the occurrence, a fight had taken place between her grandmother and Narinder Kaur pertaining to theft of gold ornaments. She raised no objection if DNA is conducted to verify truth of the charges against the accused. Taking into consideration gravity of allegations against the petitioner, I do not think it to be a fit case wherein the petitioner deserves to be enlarged on bail.

For the foregoing reasons, the petition fails and is accordingly dismissed. However, nothing stated hereinbefore shall be taken as an expression of opinion on merits of the case or cause prejudice to either of the parties in the trial proceedings.

MAY 3, 2017

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no